UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 09 CR 660 (S-1) (JG)

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-against- :

United States Courthouse
Brooklyn, New York

BETIM KAZIU, also known as :
"Abdurrahman al Albani,"
"Abdul Wahab al Albani"
and "Sayf-Ul-Islam,"

June 29, 2011

Defendant. : 9:30 o'clock a.m.

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TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE JOHN GLEESON
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Government: LORETTA E. LYNCH
United States Attorney
BY: SHREVE ARIAIL
SETH DuCHARME
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Brooklyn, New York

For the Defendant: HENRY J. STEINGLASS, ESQ.
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New York, NY 10007

APPEARANCES CONTINUED:

ROTHMAN, SCHNEIDER, SOLOWAY
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Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

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(The following occurred in the absence of the jury.)

THE COURT: Okay. We are still waiting for one juror. I understand he or she, I don't know which one it is, will be here momentarily.

Do you want to be heard with regard to the issues you mentioned at the end of the day yesterday, which are the government's application regarding coconspirator statement --

MR. DRATEL: I wanted to talk about --

THE COURT: -- testimony?

MR. DRATEL: -- the admissions.

THE COURT: And the admissions.

MR. DRATEL: That's what I am going to be handling. If I could hand this up to the Court? I tried to create a version that will give the Court some idea of what we want back in from what the government has taken out.

THE COURT: Sure.

MR. DRATEL: That would be helpful.

MR. KAZEMI: Do you have a copy?

MR. DRATEL: I can share mine with Mr. Kazemi.

THE COURT: Before we lose sight of it, on this other topic, about the coconspirator statements, I am not sure what there is in limine. I am not going to pre-fly -- I am not going to have you pre-fly all of the evidence that might establish the foundation for this testimony as coconspirator statements. You have to lay your foundation, offer it. If there is an objection at the time, I will hear argument as to whether that foundation has been laid. Sometimes it is subject to connection and I have to see at the end of the case whether I have to strike those statements, and if striking it isn't good enough, whether a mistrial is needed. I am not sure what to do pretrial on coconspirator statements.

MR. DRATEL: I think our position, Your Honor -- and I am not handling this argument specifically, but I think our position is that the government had an opportunity when the actual declarants were testifying in Kosovo, particularly Kalanderi, and that the government did not cross-examine. In other words, we didn't have the material at that time that they wished to put in. We could have -- since it was our witness, we could have used that in direct. We could have cleared that up. We could have asked the witness whether he said certain things and whether certain things occurred.

That opportunity is gone. We don't have the witness to do that in the course of the trial.

Then subsequent to the taking of the depositions, the government then notices us with those statements when they didn't use them in cross-examining the actual declarant. We think it's really not a question of straight 801(d)(2)(3), but it's really a more a question of estoppel or fairness and really the -- sort of the sequence of events that foreclosed us from the ability to address them in a way that we could have because we actually had the declarants available.

THE COURT: I understand. You would have asked them about these statements attributed to them had you known about it.

MR. DRATEL: Yes.

It's a Sixth Amendment concept as well, Fifth and Sixth in the sense of -- to confront the coconspirator statements in the sense that the government is offering coconspirator statements. We can't confront them now as we could have then. And the Fifth Amendment right to prepare and present a defense which was part and parcel of the depositions.

MR. ARIAIL: Your Honor, just to be clear for the record, that was their witness that they called in their deposition. We weren't obligated under Rule 3500 to turn over the 302s, anything that was related to what he said. But in fact the government did cross-examine the witness as to the specifics of the conversations that he had with Mr. Kaziu in that deposition. They certainly were on notice of that. We went into all sorts of things.

Actually, I will let Mr. DuCharme speak about it. It was his witness, with respect to Armand Kalanderi.

MR. DuCHARME: It's in the transcript of the Rule 15 deposition, which is before you. Essentially what we did was we confronted Mr. Kalanderi on cross-examination about his knowledge of terrorist organizations and his conversations with the defendant about those organizations and he denied it.

THE COURT: He what?

MR. DuCHARME: He denied it.

THE COURT: What are the statements that -- give me some of the examples of the statements that will be attributed by your witness to Kalanderi.

MR. ARIAIL: There will be conversations in which the witness will have been -- would have participated with Mr. Kalanderi and Mr. Kaziu in which they specifically discuss jihad, martyrdom, Al Qaeda, ways in which they could get to Afghanistan and Pakistan to fight and kill US troops overseas.

Mr. Kalanderi specifically offers to put them in touch with another individual in order to facilitate their travel to Pakistan and Afghanistan.

Those are the sorts of conversations. These are the very heart of the conspiracy. These are the meetings that they had in Cairo with people like Mr. Kalanderi in order to facilitate their plans to fighting jihad.

MR. STERN: I think the problem with that argument is that it's not really accurate. You have the Rule 15 and can read it. He was never asked, did you attend a meeting at which you said this or that, did you say this or that to this or that person. He was asked about general ideas and said those are not my ideas. Those are not my beliefs.

But if you read it I think you will see that the specific things that they want to use were never asked of him. And to the extent confrontation has any meaning, it includes the right to deny things and explain why they are not true. He was never given that opportunity.

MR. DRATEL: Your Honor, also --

THE COURT: I don't think either side is completely right but I understand the point each of you has made. I don't see a basis to preclude this testimony that otherwise satisfies the requisites of the coconspirator exception to the hearsay rule.

On the other hand, as a matter of fairness, it seems to me the jury ought to know that the reason the defendant, when the defendant's lawyers deposed Kalanderi, the reason they didn't say to him, did you say this or not, is they didn't know this question was coming. They didn't know this testimony was coming.

So why shouldn't I allow the jury to be told about the timing, that the evidence of the statements attributed to Kalanderi was not in the hands of the defense when they took Kalanderi's deposition?

MR. ARIAIL: Your Honor, the --

THE COURT: Otherwise, the jury is just going to have the unfair impression that they dodged this issue.

MR. ARIAIL: Your Honor, to be fair, and I don't want to bring in too much off the record conversation into the record, prior to our trip to Kosovo, over a year-and-a-half ago, at least, we sat down with the defense, the defendant and we gave a reverse proffer to the defense and the defendant in which we specifically talked about the fact that the defendant was engaged in illegal conduct related to Armand Kalanderi. That was a year-and-a-half ago.

The discovery that we provided for them has adequately put them on notice of Armand Kalanderi's involvement in the conspiracy. They have their client who they can talk to about what conversations he had with Armand Kalanderi. They have been on notice for a long time that Armand Kalanderi was involved in this conspiracy. We in fact turned over a series of computers that were seized in Kosovo to the defense and put them on notice about those computers as being potentially related to Mr. Kalanderi.

For them to come in and say when we went to Kosovo and we deposed Mr. Kalanderi as our witness, that we didn't know that he was involved in criminal activity with Mr. Kaziu or the government believed that.

THE COURT: That's not their point, though. Their point is the jury will have heard testimony that according to the government Armand Kalanderi said X -- pick a statement. Pick a specific statement.

MR. ARIAIL: I'll set you up with a guy who can get you to Pakistan.

THE COURT: Okay. The jury will have heard that testimony attributing that statement to Kalanderi. The jury will also know that the defendant went to Kosovo to take Kalanderi's deposition and never asked him about that statement and the reason they might not have asked him about that statement is they didn't know it was attributed to Kalanderi.

I am trying to fathom -- I understand you feel strongly about this but I am trying to understand the cognizable prejudice to the government in letting the jury know when the defense was aware of what your witness attributed to Kalanderi.

MR. ARIAIL: I think the -- the only thing I would ask for, Your Honor, before you rule is that you just take a look at the transcript of what went on in Kosovo.

THE COURT: I will do that.

MR. ARIAIL: So you have an understanding of the questions we did ask.

MR. STERN: I agree with that. I just want to make clear that the government seems to think giving us information is the equivalent of cross-examining someone. They asked Mr. Kalanderi those questions. I suspect I know what his answer would have been but we would have responded in some way. To say they know things about him, they know things that

I am not going to discuss because I am not sure if they are public or not, but they didn't ask him about those things, the things that came out of computers. Had they asked him, he would have had a chance to respond. That's exactly the point.

So I think what you are suggesting is a way to deal with it and to say that we knew things and what? They have the opportunity to confront him and ask him and they chose not to for whatever reasons they had.

MR. STEINGLASS: If I may without belaboring --

THE COURT: Excuse me.

Could you find out from Ilene if all the jurors are here.

THE LAW CLERK: They are.

THE COURT: You know what I want to do? Sorry. I want to carry through on my promise to the jury that I am not going to keep them waiting. This issue about the statements and whether or not the statements all come in or just the inculpatory ones you want to come in, that's our second witness today?

MR. KAZEMI: That's correct, Your Honor.

THE COURT: We will take a short break before that testimony, complete this argument. But having told the jury I am not going the keep them waiting a moment, I don't want to keep them waiting a moment.

Fair enough?

MR. DRATEL: Thank you.

THE COURT: Sorry to interrupt you.

MR. STEINGLASS: Of course, Your Honor.

THE COURT: You can say what you are going to say later.

MR. STEINGLASS: Thank you.

THE COURT: Would you ask Ilene to bring the jury in?

THE LAW CLERK: Yes, Your Honor.

THE COURT: These 302s you gave me are intended to demonstrate what the government seeks to keep out and what it wants to put in?

MR. DRATEL: Mr. Kazemi had ex'd out -- I don't know how visible it is because it's a printed copy on a black and white printer.

THE COURT: I've got it.

MR. DRATEL: I have highlighted what we would like to put back in.

THE COURT: Great.

Thank you, sir.

(Jury present.)

THE COURT: Good morning, everybody.

Nice to see you again.

Okay. Everyone please be seated.

Good morning, ladies and gentlemen.

Now that you are comfortably seated, could you stand up so I can swear you in?

Raise your right hands.

(The jury is sworn/affirmed by the Court.)

Okay. We are ready to start the trial. Let me remind you of a few things that I've already told you on more than one occasion.

This is a criminal case. The defendant has pleaded not guilty to all four of the charges against him. By doing so, he's placed on the shoulders of the government the burden of proving him guilty beyond a reasonable doubt. It is a burden that never shifts from the government.

The defendant in a criminal case is presumed innocent, must be presumed innocent by you throughout the trial and throughout the deliberations. Only if you are satisfied that the government has proved the defendant guilty beyond a reasonable doubt of a particular charge you are considering does the presumption of innocence cease to operate.

The defendant, Betim Kaziu, has no burden. He doesn't have to prove his innocence. He doesn't have to prove anything. As I mentioned, the burden is solely on the government.

Consistent with those principles, the defendant has the option to testify if he wishes but he also has the absolute right not to testify and, as I have mentioned to you already, the right to a jury that will not hold it against him if he chooses to exercise his right to remain silent.

So no inference can be drawn against him if he chooses to not take the witness stand in this case. In fact, if that is his decision, you will hear me say at the end of the trial, you will be ordered not even to discuss his decision not to testify during your deliberations. It is that important, that fundamental a right.

Here is how we will proceed. First you are going to hear opening statements from counsel; first from the government, which must make an opening statement; and then you will hear -- you are going to hear from Mr. DuCharme -- right?

MR. DuCHARME: Yes, Your Honor.

THE COURT: -- in opening. Then you are going to hear an opening statement from Mr. Steinglass on behalf of the defendant.

The government must make an opening statement but, consistent with what I have told you already, the defendant doesn't have to. He has the option. I am informed the defendant will avail himself of that option and thus you will hear from Mr. Steinglass.

The most important thing to be said about opening statements is they are not themselves evidence. When the lawyers address you directly from that podium in openings and later on in the trial in summations, it is not evidence. The evidence on which you will base your verdicts will be the testimony you hear from this witness stand and any exhibits that I receive in evidence during the course of the trial.

So what the lawyers tell you directly is not evidence. It doesn't mean it is not important. It is important. The openings are the lawyers' opportunity to tell you what they think the evidence in the case will prove or not prove.

After you hear the opening statements, then the government will proceed to attempt to prove the charges in the case beyond a reasonable doubt. The prosecutors will do so by calling witnesses to the witness stand. They will be placed under oath.

The prosecutors will examine them in what we call direct examination. The defense lawyers will have an opportunity to cross-examine the witnesses. Sometimes there is redirect examination, sometimes recross, re-redirect, all in an effort to give each side a full and fair opportunity to bring out from that witness whatever testimony it wishes to bring out.

There will come a point when one of the prosecutors gets up and says, the government rests its case. At that point the defendant has an opportunity, but again no obligation, to present evidence in defense of the charges.

If Mr. Kaziu and his counsel choose to avail themselves of that opportunity, they will proceed in the same way. They will call the witness. The witness will be examined on direct by the defense lawyers, cross-examined by the government lawyers, and so on.

There will come a point when both sides rest and then the lawyers will get a chance to address you again in summations, closing arguments.

After that, it will be appropriate, and only then will it be appropriate, for you to discuss the case among yourselves because then it will be time for deliberations.

In the meantime, as I have mentioned to you already, don't discuss the case. I'll tell you the reason for that hard and fast rule we have prohibiting the discussion of the case is something about discussing a witness' testimony or something a lawyer told you in opening statements, there is something about discussing those things, and as the case proceeds you will get a feel for where the pressure points are, what's principally in dispute, what's not. There is something about discussing those things that can cause opinions to form on your part. It's the nature of the beast in having a discussion about a particular topic.

Even if those opinions are just preliminary and subject to change, it still wouldn't be right for you to make up your mind even preliminarily, even subject to change, about any aspect of the case, until you heard all the evidence and the arguments of counsel and my instructions to you on the law. That's why we have this rule where you don't discuss the case until it comes time to deliberate.

I am going to tell you now, it is a hard rule to abide by. You are going to do it. Some of you reflexively or back in the jury room after a session of testimony and in good faith, someone is going to say something about what the witness testified to because you can lose sight of this instruction. But not all of you will lose sight. As soon as somebody begins discussing the case say hey, Judge Gleeson told us don't discuss the case. All right. Stay off of that.

It's very important that when it comes time for to you discuss the issues and the evidence in the case that you got all the evidence before you and the arguments of counsel.

All right?

Lawyers object during trials. Never hold it against a lawyer if he or she -- it looks like it will be a he if it happens in this case -- objects. They are just doing their job, protecting their side's interest in the case.

Those objections call upon me to do my job, which is to decide, if what has been objected to is a question to a witness, to decide whether under the Rules of Evidence you ought to hear the answer to that question. If the objection is to a document or some other physical exhibit, it calls upon me to decide whether under those same Rules of Evidence I ought to receive that disputed exhibit into evidence, which means, by the way, it is available for your inspection. Not always on the spot. Don't be put off if something is received in evidence and it is not shown to you. There will came a point when the lawyers show it to you or tell you to ask for it during your deliberations.

Anyway, to get back to the objection point, sometimes I benefit in doing my job as best I can from a little bit of argument about what the nature of the objection is and what the other side's response to that is, and sometimes that discussion includes, often it includes the answer to the objected to question or a description of what's in the objected to exhibit.

It wouldn't make a whole lot of sense to have that discussion in front of you only to then possibly rule it out of bounds and have exposed you to the evidence I have ruled inadmissible. So that's why we do it over at side bar during the trial. I do try to keep it to a minimum. I don't like to keep you waiting. But to do my job right sometimes I need to bring the lawyers up to the side bar, flesh out an objection.

I tell you now so you know what we are doing up here out of your hearing and why we are doing it out of your hearing and to ask your patience in advance if that happens during the course of the trial, as it inevitably does.

If I overrule the objection, you will hear the answer to the question, or if it is an exhibit that's been objected to, you will have available for your inspection that exhibit. Don't accord it greater significance, don't count it as more important evidence because it came in over objection. It is just part of the evidence, like everything else in evidence.

On the other side of the coin, if I sustain an objection and you are not going to hear the answer to the question, you won't see the disputed exhibit, don't speculate. By all means, don't speculate as to what the answer might have been or what was in the exhibit. Forget it. I have ruled it out of bounds. We move on.

With Ilene's help, I have made it possible for you to take notes during the trial. It seems to me only fair to let jurors take notes. We take notes. So feel free.

A couple of admonitions about the notes. One is really kind of self-evident but I will say it anyway. When it comes time for you to share your views about the evidence, the weight and effect of the evidence, don't let one juror's views about the case assume greater significance because that juror happened to be a copious note taker and someone else wasn't. All right. Don't let the notes have that effect when it comes time to deliberate.

Less obvious, but equally as important, is this. It is common for jurors to have a failure of recollection as to precisely what the testimony was. Sometimes precision matters a lot. It is more often than you might think, jurors actually have a disagreement as to what the testimony was.

If either of those things happens with you folks, you are not going to resolve your failure of recollection or your disagreement by reference to somebody's notes. Don't let them become a quasi official record of the case. You see Gene is here and some of his colleagues have been coming in and out and will come in and out. They are taking down every word that's said. It's the official record of the case. If there comes a need for you to know precisely what a witness' testimony was or resolve a disagreement among yourselves as to what the testimony was, you will ask me for a readback and we will read it back to you. Don't let the notes become a transcript of the case.

A courthouse, you will see, even in a trial like this, which is really not that long a trial, a courthouse is a little community on to itself and sometimes you will run into people involved in the trial, in the hallway or coming and going, near the courthouse maybe. When you do, you being decent folks you will nod good morning or hello. They will ignore you. They won't even say hi. I am talking about the people in the well of the Court. That's because they are about to be placed under court order not to have any communication with you.

I hereby order the people in the well of the Court, at the prosecution table and the defense table, to have no communication whatsoever with any member of this jury panel during the course of this trial.

The reason for the order is, you probably have figured this out yourselves, obviously it wouldn't be right for one of these folks to talk to you about the case outside the courtroom. You feel the inappropriateness of that in your gut. It wouldn't look right. Even if you weren't talking about the case, even if you are talking about the weather or the Mets or something, it wouldn't look right if you were having a conversation with one of these people.

That accounts for the second hard and fast rule, where they have no communication with you whatsoever, period, throughout the course of this trial. I mention it to you so you don't think they are being rude if you happen to see them and you nod hello or say good afternoon and they ignore you. They are not being rude. They are following my order and I want to know from you if they fail to follow my order in any way, shape or form. If there is any communication to you whatsoever, however innocuous it may seem, coming from anybody in the well of the Court, I want to know about it, through Ilene, from you.

Lastly, and I've told you this already, and some things are so important, like not discussing the case, they bear repetition. I'll tell you that every time you leave the courtroom.

This is also something that bears repetition, and that is, you can't go looking for information during this trial about the trial, about the subject matter of the trial, about the people involved in it. You can't let that information find you. As I told you, I am not barring you from your computers but I am expecting you to respect the principle that when it comes time for you to deliberate, the information that will be brought to bear on your verdicts will be the testimony you hear from this witness stand and the exhibits I receive in evidence during the course of the trial.

Don't go searching for information. If for some reason you bump into information, you see a communication of any sort about the case, avoid it. Tell someone else to save it. You can read it after the trial, if you want. Respect the fact that you need to, in the sense I have described, quarantine yourselves.

No blogging, no Tweeting, no whatever-ing about your jury service. No communication out from you about your jury service. Respect the sanctity of a jury and of a jury's deliberations when it comes time for you to deliberate. That stays with you.

So please be sure not to violate the letter or the spirit of what I tell you in that regard. All right?

That's all I have.

Are we ready with the opening statement?

MR. DuCHARME: I am, Your Honor.

THE COURT: Go right ahead.

MR. DuCHARME: Good morning.

Al Qaeda and other foreign terrorist organizations have put out a call to arms, asking young men from all around the world to join their fight. Betim Kaziu, the defendant in this case, answered that call.

That's Betim Kaziu, sitting right there across from you. And the evidence in this case will show that he conspired to kill people, including American troops, overseas. Kaziu agreed to support terrorists who have perverted religion to incite violence. He traveled to the Middle East and he attempted to join a foreign terrorist organization called Al Shabaab.

During the course of this trial, you will learn how the defendant, a man from Brooklyn, New York, launched this terrorist plot.

It all started around the summer of 2008, when the defendant and some of his friends took a trip to Saudi Arabia. That trip piqued the defendant's interest in Islam and when he got back he and his good friend Sulejmah Hadzovic did some research. They went on line on their computers and they discovered a mountain of propaganda, propaganda that had been created by some of the world's most notorious terrorists, including Osama Bin Laden.

Rather than be repelled by these hateful videos, the defendant embraced them and he and Hadzovic spent hours a day watching training videos that had been created by Al Qaeda and listening to lectures by extremists, such as Anwar al-Awlaki.

They also studied videos that had been put out by the terrorist organization Al Shabaab, which is based in Somalia and which echoes Al Qaeda's message and its call to arms.

And the defendant and Hadzovic began to form a plan. By January of 2009, the defendant and Hadzovic had agreed that they would join and fight with terrorists. They wanted to fight in a country where Islamic law or shariah law could be imposed by force. Their list of possible destinations included Iraq, Afghanistan, Pakistan, Palestine and Somalia. Their intended victims included American soldiers.

The defendant repeatedly told Hadzovic that he wanted to die a martyr, a hero in the cause of a holy war, entitled to rewards in the afterlife.

The defendant and Hadzovic knew that their plot was risky. So they took steps to keep the conspiracy secret. They talked in code. They referred to Somalia as the beach. Sometimes they went so far as to remove their batteries from their cellphones for fear that their conversations could be intercepted.

They decided that Cairo, Egypt would be the next step on their path to jihad, a war against their perceived enemies of Islam. So they bought plane tickets from New York to Cairo. And on February 19, 2009, the defendant and Hadzovic got on a plane at John F. Kennedy Airport in Queens and they flew to Cairo.

The plan was in motion. In Cairo, the defendant found other like minded individuals who offered him help with his plot. For example, he met a man named Armand Kalanderi who offered assistance to him in getting to Pakistan. He also met a man named Ahmed who showed him routes by which he could get into Somalia to join Al Shabaab.

And the defendant and Hadzovic also made efforts to get automatic weapons, such as AK 47 assault rifles.

But by May of 2009, Hadzovic, the defendant's friend, he had a change of heart. Hadzovic decided to go home, to leave Cairo.

The defendant struggled to keep Hadzovic committed to jihad, telling him we can fight in the Balkans. That was an area more accessible to them. But Hadzovic had had enough. On August 8, 2009, Hadzovic went home. The defendant did not.

In July of 2009, the defendant left Cairo and he went on to Kosovo, a country in the Balkans. He lived there in a small apartment where he made video recordings of himself. It was a kind of journal.

He also traveled to the Albanian coast. There on the Albanian coast he recorded his good-bye, contemplating that he would soon depart for paradise, jannah, a reward reserved for those who die martyrs.

But what the defendant didn't realize while his plot was unfolding was that law enforcement was close on his heels. On the date of August 27, 2009, two things happened. One, back in New York members of the NYPD FBI Joint Terrorism Task Force approached Sulejmah Hadzovic at home and Hadzovic immediately agreed to cooperate.

The second thing that happened that night is that the Kosovo Police Service in Prizren, Kosovo, executed search warrants on the defendant's apartment and on the compound of an associate nearby. When the Kosovo police searched the defendant's apartment and his belongings, the FBI was there with them. The Kosovo police shared the evidence they recovered from their searches with the FBI.

For example, they found the recording that the defendant had made of himself on the Albanian coast. Investigators also searched the defendant's laptop, and like the defendant's camera, the laptop yielded significant evidence of his plot. For example, a map of Pakistan, training films from Al Qaeda, terrorist propaganda from

Al Shabaab, pictures of AK 47 s and a variety of other materials.

So the defendant was caught before he could complete his mission to kill Americans and others overseas. He was arrested by the Kosovo police and within 30 days he was on an FBI plane back to New York to face charges.

And now sitting before you, the defendant is charged with four crimes.

One, conspiring to commit murder in a foreign country.

Two, pledging himself in support of that conspiracy.

Three, attempting to join a foreign terrorist organization.

And, four, conspiring to use automatic weapons.

I along with my colleagues from the US Attorney's Office and the FBI, we are going to present the evidence to you in this case and prove those charges beyond a reasonable doubt. Here is how we are going to do it.

You are going to hear evidence in the form of live testimony from people with personal knowledge of the facts. For example, you will hear from Sulejmah Hadzovic, about how he and the defendant agreed to fight and kill overseas.

Hadzovic has admitted to committing serious crimes. He's in a unique position to take you inside this conspiracy, to explain to you how someone from Brooklyn, New York, ends up a dedicated terrorist.

You will also hear from law enforcement officers who took part in the searches overseas. You will hear from an expert witness who will help you understand how international terrorism works, what Al Shabaab is and how the materials on the defendant's computer were useful to him in joining up with terrorists.

You will also see physical evidence recovered during the searches, such as the digital camera. You will see documents like travel records. You will see evidence that makes clear the defendant's intentions. You will hear from the defendant in his own words as they were captured on video recordings, in documents, in emails, even poems he wrote.

At the conclusion of the case, based on all the evidence that's before you, we will establish beyond a reasonable doubt that the defendant is guilty and we will ask you to return a verdict of guilty on all counts.

Thank you for your attention.

THE COURT: Thank you, Mr. DuCharme.

Mr. Steinglass.

MR. STEINGLASS: This is a case about two boys who became very good friends around the time they went to junior high school at Seth Low Junior High School here in Brooklyn and one of them is Betim Kaziu, who you have already in effect been introduced to, and who I have the privilege and the responsibility of representing, along with Joshua Dratel and David Stern. And the other, as you just heard Mr. DuCharme say, is Sulejmah Hadzovic.

And these two boys, Betim and Sulo, as he is called, some years after junior high school went to Cairo, Egypt, and they both are going to be here in the courtroom for you today.

Now, I am going to talk about some of the evidence that the defense is going to introduce, that I expect we are going to introduce, and some of that is going to be when we ask questions and there is an answer to that question and some of it is going the be videos and other kinds of -- those kinds of materials that we are going to ask to be put into evidence. So I am going to give you a preview of those kinds of things.

First, at the end of August, when Betim was arrested in Kosovo, just before he's arrested, there is a video and he's on this video with an air rifle and we expect that you are going to see that video and you are going to hear Betim talking about what -- he was basically joking around, I submit, with this air rifle, what was he going to be doing with this air rifle. And he says on this video something about doing something in Brooklyn.

Second, when Sulo came back to New York on August the 8th, 2009, the next day he's driving around with family and he feels he's being followed. He had arrived at this airport at JFK dressed, the evidence is going to show, in I guess I would say, religious type clothing and he was subjected to I guess extra scrutiny at the airport, is perhaps the way to put it. He's come back from Cairo and he'd gone actually on June 8th. He actually went from Cairo to the Balkans to a place called Plav in Montenegro, where his family was originally from and then he came from Plav to JFK.

And when Sulo realizes that he's being -- he has been followed, what does he do for the next two weeks or more? The evidence is going to show that Sulo stayed in his house, waiting for the knock on the door for more than two weeks, until the police came to talk with him.

And then Sulo made a deal and you are going to hear about the deal and you are going to hear about how big the benefits were for Sulo in this deal.

Now, something more the evidence is going to show about Sulo. When Sulo went to Cairo, he didn't tell his parents he was going the Cairo. But not only that. The evidence is going to show that what he did was he went with one of his brothers as if he was going to see Betim off and say good-bye to him at the airport and instead Sulo gets on the plane with Betim and leaves it to his brothers to explain, to his mother and father, how it is that he's gone to Cairo without telling them.

And Betim, when he's in Cairo, on May the 27th of 2009, or thereabouts, Betim writes an email to one of his friends, a long email, and he talks about how well, if -- he says basically in his email, the Egyptian police are arresting people here in Cairo, in my neighborhood. And if I'm arrested and I can't keep in touch with my family -- because Betim had told his family he was leaving, and where he was -- I want you, my friend, to pretend that you are me and try to keep my parents from realizing that I'm going to be in a jail in Egypt. And if it goes on for -- if it is short, I'll be able to resume my contact with my family. And if it is long, well, try to work it out.

Two boys, Sulo, Betim, trying to pretend things for their parents.

Now, Betim's laptop, you are going to hear evidence, there were a lot of things on that laptop. I am going to get to them in a moment.

The evidence is going to show that when Betim was approached by the police in Kosovo and he was interrogated, questioned, he consented to the search of the laptop and that the laptop was sitting in a room in the place where Betim had been visiting the night before. It was sitting out in the open, in this room, and that when you accessed the laptop, it's got his name on it, Betim Kaziu.

And there were -- there were other things that were out in the open, like his MySpace page, because I expect you are going to see the MySpace page and you are going to see some large guy with a very large sword and you are going to see the kind of things that Mr. DuCharme talked about on this MySpace page; Osama Bin Laden, things about 9/11, things about -- that 9/11 was good and that America is bad, things about destroying Israel, all kinds of things on this MySpace page and other things that are going to come into evidence, I expect, from Betim's computer, things with explosions and talk about body parts and basically glorification of war from the Muslim point of view.

The evidence is going to show, I expect, that this kind of material is widely distributed by Al Qaeda and its -- the people working with Al Qaeda and that many, many, many people watch this kind of material, many Muslims watch this kind of material, and the evidence is going to show that young Muslim men are concerned about what are their obligations, their religious obligations, to do jihad.

And there is going to be evidence here, what does jihad mean. It has different kinds of meanings, from internal struggle to fighting and what kind of fighting, et cetera, et cetera.

And you may well have very strong reactions to this material, hate type of material is one way to talk about it. But I am confident that all of you will follow the judge's instructions to focus on the evidence. And the question that you will have to decide in the end, is there proof beyond a reasonable doubt that the ingredients of these specific crimes that Betim is charged with have been proven by the prosecution.

Now, there are a few more items I want to mention.

There is a poem I think that was mentioned, a poem which you are going to -- I expect is going the be in evidence about leaking in blood. It's a poem. So think about poetry, whatever you think about poetry.

There is some of this material on the computer I expect you are going to see has basically been cut and pasted from somewhere else.

All right. A couple of more items.

The video at the coastline that Mr. DuCharme just talked about, the evidence is going to show, I submit, that that was one interpretation, the interpretation Mr. DuCharme gave you. But that there are other interpretations and there may well be evidence that some of these interpretations are innocent interpretations of this video that I expect that you are going to see.

And then there is going to be a video about the Statue of Liberty and you are going to -- expect you are going to see that video about using hands to imitate flying planes into the Statue of Liberty.

And you are going to see other videos besides this. You are going to see videos of Betim fooling around and fooling around with mirrors, like -- well, you will see it. So I won't try to describe it.

This is just before he's arrested at the end of August. You are going to see he's pretending to be a weatherman. You are going to see one where he's pretending to be in the mafia and you are going to see one where he's pretending to be some kind of a drug dealer and he's writing, on the video he's writing a check for a large amount of money to pay for the drugs.

When you see those videos, you may see some of the same type of fooling around that you see in that video I talked about earlier, about the air rifle, where the evidence is going to show that at the end of August, Betim says for the camera and for the other -- well, there is a boy named Hamedin whose testimony you are going to hear who is taking the picture, is I think what it is, and Betim says, and you will pardon my language, to my niggers back in Brooklyn. Nigger's got a problem. I'll bust a cap in your ass with this, with this rifle, son. Hey kid, you understand me.

And then Hamedin says, I understand.

And Brooklyn is what he's talking about.

Now, there are a lot more things I would like to talk to you about, but I am going stop here at this point with just mentioning that you are going to hear testimony from Armand Kalanderi that contradicts what Mr. DuCharme said Sulo is going to say. And you will also hear testimony from Bajram Berisha and that was the person whose house Betim stayed at the night before he was arrested.

And at the end of the case, after all the evidence is done, the defense counsel will have a chance to talk with you again and talk about the evidence that's actually come in before you and I am confident you will keep an open mind until we reach that point and beyond, until the judge instructs you to start your deliberations later on.

THE COURT: Thank you, Mr. Steinglass.

Mr. DuCharme, call your first witness.

MR. KAZEMI: Your Honor, the government calls Kosovo Police Services Sergeant Besim Rexhepi.

MR. STERN: I can't see the witness.

THE COURT: Where do you want do sit? Over here?

MR. STERN: Somewhere.

THE COURT: Yes.

MR. STERN: Thanks.

THE COURT: So you can get a line of sight?

MR. STERN: Yes. This monitor is in the way.

(Continued on next page.)

THE CLERK: Please raise your right hand.

(The witness is duly sworn/affirmed by the clerk through the interpreter.)

THE CLERK: Please state your name and spell it for the record.

THE WITNESS: Besim Rexhepi, B E S I M, R E X H E P I.

THE COURT: Good morning.

Madam interpreter, would you raise your right hand?

(The interpreter is duly sworn/affirmed by the Court.)

THE COURT: Please state your name.

THE INTERPRETER: Luljete Andoni, L U L J E T E, A N D O N I.

THE COURT: Okay. Mr. Kazemi.

MR. KAZEMI: May I inquire, Your Honor?

THE COURT: You may.

MR. KAZEMI: Thank you.

Your Honor, I will be using the Elmo with the Court's permission.

THE COURT: Yes.

MR. KAZEMI: Thank you.

(Continued on next page.)

DIRECT EXAMINATION
BY MR. KAZEMI:
Q Good morning, Sergeant Rexhepi.
A Good morning.
Q Where are you from?
A I am from Kosovo.
Q Where is Kosovo?
A Kosovo is in Europe, exactly in the Balkans.
Q What's the main language spoken in Kosovo?
A Albanian language.
Q Is that the language you are speaking now?
A Yes.
Q Where do you work?
A I work at Kosovo police.
THE COURT: Hang on one second.
I will move the microphone.
Sorry for the interruption.
Go ahead, Mr. Kazemi.
MR. KAZEMI: Thank you, Your Honor.
Q What are the duties of the Kosovo Police Service?
A The duties of Kosovo police are to protect -- -- are to serve to the people of Kosovo, to protect their lives and their property.
Q How many law enforcement agencies are in Kosovo?
A Only Kosovo police.

Q Can you just briefly describe how the Kosovo Police Service is organized?
A Kosovo police is organized in this way: The central level, the regional level and the local level.
Q Approximately how many members are in the Kosovo Police Service?
A About nine thousand.
Q Where is the central command?
A In Pristina.
Q Where do you work?
A I work in Prizren.
Q How does Prizren relate to the other regions of the Kosovo Police Service?
A Prizren is the second. Pristina is the biggest; Prizren is second.
Q Prizren is a city?
A Yes.
Q What's the approximate population of Prizren?
A About 250 thousand people.
Q How long have you been working for the Kosovo Police Service in Prizren?
A From the year 2000.
Q What's your rank and title?
A The rank is sergeant; position, I am the Chief of the Regional Forensic Department.

Q What are your duties as Chief of Forensics?
A Manage the staff, organizing meetings, and taking care that all evidence collected in different places be packaged and managed properly and being sent forensic lab.
Q How long have you been Chief of Forensics?
A From the year 2005.
Q What did you do before you were Chief of Forensics?
A I worked in the same unit, which is Forensic Unit, as criminal technician -- crime technician.
Q Thank you.
I would like to direct your attention to the night of August 27, 2009.
Were you working --
A Yes, I did.
Q Were you working as Chief of Forensics at the Kosovo Police Service in Prizren that night?
A Yes.
Q On that night, were you involved in an investigation of an individual named Betim Kaziu?
A Yes.
Q What did you do in connection with the investigation that night?
A On that night of August 27, 2009, we did two searches, in two separate locations. The first one was on Besnik Muqaj Street, building number ten, the third floor. The apartment

was -- of Betim Kaziu was living.
Q And the second search?
A The second -- the second search was done -- the second location was in Sheh Emini Street, number 77, in the house of Bajram Berisha.
Q Approximately what time were those two searches conducted?
A The search of the first location started at about 2230 on August 27, 2009. The search in the second location started at about 24, and Sheh Emini Street number 77, both in Prizren.
Q Did you personally participate in those two searches?
A Yes, I did.
Q Did you conduct the searches alone or as part of a team?
A As part of a team.
Q What was your role?
A To manage the team, the forensic team, to take care so that photographing and collection and packaging be done in a proper way.
Q Were any items seized during the searches?
A Yes.
Q Did your team photograph the items that were seized?
A Yes.
Q Is that sort of standard operating procedure for Kosovo police?
A Yes. This is standard procedure, that is being operated

by Kosovo police.

Q Did you personally participate in the taking of all of the photographs?

A Yes, I did.

Q Did you create a photographic report summarizing the search results?

A Yes, I did.

MR. KAZEMI: Your Honor, I have a number of photographs. May I approach the witness or would Your Honor prefer that I post them on the Elmo first?

THE COURT: I prefer you use the machinery.

MR. KAZEMI: Thank you, Your Honor.

Q I am showing to the witness what's been marked for identification as Government Exhibit 505.

THE COURT: If you look to your right, you will see what he sees.

MR. KAZEMI: Thank you, Your Honor.

THE COURT: You want to turn it 90 degrees?

MR. KAZEMI: Thank you, Your Honor.

THE COURT: You are welcome.

MR. KAZEMI: Your Honor, I will show him, with the Court's permission, I will show him all the photographs and then I will lay the foundation for all of the photographs. There are about ten in each set. Or I can do it individually.

THE COURT: He's looked at them before?

MR. KAZEMI: Many times, Your Honor.

THE COURT: Okay. Do you anticipate objections to these photos?

MR. STEINGLASS: No, Your Honor.

THE COURT: Any reason why he can't just -- I don't mean to truncate it. If you want to lay a foundation, fine.

Do you want to come up to side bar?

MR. STEINGLASS: No, Your Honor.

We can abbreviate this.

THE COURT: All right. I will receive them in evidence and then you can have him testify about them rather than put them on the overhead twice.

MR. KAZEMI: Excellent. Thank you, Your Honor.

Then the government offers the exhibits 505, 506, 522, 526 and 527 through 533, which are all photographs.

THE COURT: All right. Received.

(Marked.)

MR. KAZEMI: Thank you, Your Honor.

(Continued on next page.)

BY MR. KAZEMI:

Q Sergeant Rexhipi, I'm showing you Government Exhibit 505.

A Yes.

Q Please tell the jury what we're looking at there.

A A computer, a hard drive, a paper in green color, a drawer with a couple of CDs and paper.

Q Where was this photograph taken?

A This picture was taken on August 27, 2009 in the house of Bajram Berisha at the number 77 in Prizren.

Q I'm now showing you Government Exhibit 506. Could you please tell the jury what we're looking at here.

A It's a piece of paper, green color, which was seized from the house of Bajram Berisha, Sheh Emini Street, Number 77, also in Prizren.

Q Is there any writing on that paper?

A Yes. Abdurrahman88slive.com.

Q Turning to 522. It's not the greatest quality photo, but do you recognize that photo?

A Yes, I do.

THE COURT: What is that?

A This is a general view of the entrance to the house of Bajram Berisha.

Q This is 526. What is that we're looking at?

A This is an Adidas bag.

Q I will show you quickly 527 through the 530: That is

527. Do you recognize that.
A Yes, I do.
Q What is that?
A An Adidas bag.
Q 528.
A The same bag, and Adidas bag and also a laptop computer.
Q Is this the laptop up here?
A Yes.
Q 529.
A A laptop computer. The picture is taken from a closed position.
Q 530.
A Again, a laptop computer.
Q That is the same laptop?
A Yes, the same.
Q 531.
A The same laptop computer. It's open. The name Betim can be seen.
Q Where is that name?
A In this part, the upper part.
Q 532.
A Again, the laptop computer open. This picture is taken closer, up closer. Again you can see the name Betim.
Q One more from this stack. 533?
A The same, the laptop computer, but it is closed.

Q Thank you. I'm now going to show you what has been marked for identification as Government Exhibit 601.

MR. KAZEMI: May I approach with this?

THE COURT: You may.

Q Do you recognize that item?

A Yes, I do.

Q What is that?

A That is the laptop computer, Dell.

Q That the same laptop that was depicted in those photographs?

A Yes, it's the same.

Q Is it in substantially the same condition it was in on night you found it?

A Yes.

MR. KAZEMI: The government offers Exhibit 601, your Honor.

MR. STEINGLASS: No objection.

THE COURT: Received.

(So marked.)

MR. KAZEMI: May I approach, your Honor?

THE COURT: Yes.

Q I'm now showing you what has been marked as Exhibit 602 for identification.

A Yes.

Q Do you recognize that item?

A Yes, I do.
Q What is that?
A The Adidas bag, the same bag as was photographed and seized on August 27, 2009 in the house of Bajram Berisha in the street Sheh Emini, number 77 in Prizren.

MR. KAZEMI: The government offers 602.

MR. STEINGLASS: No objection, your Honor.

THE COURT: Received.

MR. KAZEMI: At this time I'd like to show a number of additional photos, your Honor.

THE COURT: You may.

MR. KAZEMI: If there is no objection --

THE COURT: Come up to sidebar, please, gentlemen.

(Continued next page.)

(Sidebar.)

THE COURT: I should never ask in front of the jury if there is an objection. I want to move things along.

If you don't anticipate objections, rather than show him once, authenticate them and go back and show them to the jury, streamline it.

Do you anticipate the same situation with these photos?

MR. STEINGLASS: I do. Although I'm not sure exactly which photographs are being offered. But in general we're not going to have any objection to any of these.

THE COURT: How about this: Before you do it, you have a stack, show them to your adversary. If there won't be objection to them I'll receive them and will only have to put them on the board once.

MR. STEINGLASS: All right.

MR. KAZEMI: I can show you the pack. There are a couple of pictures.

THE COURT: Better not use all the time we save here at sidebar. It will defeat the purpose.

(Continued next page.)

(Open court.)

MR. KAZEMI: The government offers 536 through 544.

MR. STEINGLASS: No objection, your Honor.

THE COURT: Received.

(So marked.)

MR. KAZEMI: Permission to publish, your Honor?

THE COURT: Yes, you may.

MR. KAZEMI: Thank you.

Q Sergeant Rexhepi, will you please tell us what we're looking at in that photo.

A Yes. Bank notes, Arabic.

Q Is there a particular country that they are from?

A As far as I see here, one of them is from Egypt.

Q Showing you 537. What is that?

A This is a picture of the building from outside in Besnik Muqaj Street, in the apartment where Betim Kaziu lived.

Q I forget to ask you. Exhibit 536, that you just looked at, the Arabic bank notes. Were those found?

A They were found in the apartment where Betim Kaziu lived, Besnik Muqaj Street, Building Number 10, third floor.

Q Showing you Exhibit 538. What is that?

A The American passport belonging to Betim Kaziu.

Q Where was that found?

A Building Number 10, Besnik Muqaj Street, third floor, in Prizren. The apartment where Betim Kaziu was living.

Q Now showing you 539.
A Yes.
Q What is that?
A The copy of the American passport belonging to Betim Kaziu; a driver's license belonging to Betim Kaziu, issued by the State of New York. A copy of a bank card, HSBC.
Q I'm going to zoom in for one second.
That is the driver's license you're referring to?
A Yes.
Q Now, Exhibit 540. What is that?
A It's a CD and itinerary.
Q Where is that itinerary in that photo?
A Here. Also a copy of the driver's license.
Q Whose itinerary was that?
A It's in the name of Betim Kaziu.
Q Just a few more. 541, what is that.
A A camera.
Q Where was that found?
A In the apartment where Betim Kaziu lived, Besnik Muqaj Street, Building Number 10, third floor, in the City of Prizren.
Q 542. What do you see there?
A It's a camera under the table and a couple of books in this area here.
Q Also found in the apartment of Betim Kaziu?

A Yes.

Q The same camera from 540?

A The same camera that we took a picture of -- that we photographed and seized.

Q And just two more for now. 543. What is that?

A It's a CD and a SIM card.

Q I'm going to zoom in. Can you show the jury where the SIM card is.

A Yes.

Q That was also found in the apartment of Betim Kaziu?

A Yes.

Q Finally, 544.

A Yes.

Q What is that?

A This is also the CD and the SIM card, but the picture is taken from up close, a closer position.

Q Thank you.

MR. KAZEMI: May I approach, your Honor?

THE COURT: Yes. You have something you want show him?

MR. KAZEMI: Yes.

Q I'm showing you what has been marked for identification as Government's Exhibits 701, 703, 704 and 705. Can you please take a look at those.

A Yes. 701 is the camera. It is the same with the one that we photographed and seized on August 27, 2009. The address is Besnik Muqaj Street, Building Number 10, the third floor, the apartment where Betim Kaziu lived.

MR. KAZEMI: The government offers 701.

THE COURT: Any objection, sir?

MR. STEINGLASS: No objection.

THE COURT: Received.

(So marked.)

Q Could you please take a look at 703, 704 and 705 and let us know if they were also found in the apartment of Betim Kaziu.

A Yes. 703 is the American passport belonging to Betim Kaziu that was also found in the apartment, in the same address as I mentioned before.

Q And 704 and 705.

A 704 is a copy of the American passport belonging to Betim Kaziu, the driver's license, a copy of it. It was issued by the State of New York belonging to Betim Kaziu.

705 is a copy of the bank card, HSBC, in the name of Betim Kaziu.

MR. KAZEMI: The government offers 703, 704 and 705.

MR. STEINGLASS: No objection.

THE COURT: Received.

MR. KAZEMI: Permission to briefly publish it to the jury?

THE COURT: Yes.

(So marked.)

(Pause.)

MR. KAZEMI: May I approach with two final items?

THE COURT: Yes.

MR. KAZEMI: Thank you.

THE COURT: Are they pieces of paper?

MR. KAZEMI: No, your Honor. One of them is a piece of paper. One of them is a different item.

THE COURT: You can bring them up.

MR. KAZEMI: Thank you.

Q I'm showing you what have been marked as Government Exhibits 709 and 717 for identification. Do you recognize those?

A Yes, I do.

Q What are they?

A This is an itinerary, 709 in the name of Betim Kaziu.

Q When you say "this," was that 709?

A Yes.

Q Yes.

A 717 is a SIM card.

Q Was that the SIM card found in Betim Kaziu's residence?

A Yes, it's the same.

MR. KAZEMI: The government offers 709 and 717.

MR. STEINGLASS: No objection, your Honor.

THE COURT: Received.

MR. KAZEMI: Thank you, your Honor. Permission to publish?

THE COURT: Yes.

MR. KAZEMI: Thank you.

(Pause.)

MR. KAZEMI: That was 709. This is 717.

(Pause.)

Q Sergeant Rexhipi, I'd like to show you two additional photographs that the government is offering for identification at this time. They are Government Exhibit 713 A and 713 B.

MR. KAZEMI: Your Honor, with your permission I'll use the Elmo for these two?

THE COURT: Yes, go ahead.

Q Do you recognize that photograph?

A Yes.

Q What is that?

A It's a manual or handbook how to use a gun.

Q Where was that photograph taken?

A This picture was taken from the apartment where Betim Kaziu was living at the time, Besnik Muqaj Street, Building Number 10, the third floor, the City of Prizren.

Q I'm showing you 713 B for identification. Do you recognize that?

A Yes, I do.

Q What is that?
A The same object, the handbook how to use a gun found and photographed in the apartment where Betim Kaziu lived. It's the same address, Besnik Muqaj Street, Building Number 10, third floor, in Prizren.

MR. KAZEMI: The government offers 713 A and 713 B.

MR. STEINGLASS: May I approach briefly?

THE COURT: No.

You object?

MR. STEINGLASS: Yes, your Honor.

THE COURT: Overruled. Received.

(So marked.)

MR. STEINGLASS: May I make my objection?

THE COURT: Later.

MR. KAZEMI: Permission to publish, your Honor.

THE COURT: Yes. Received.

(So marked.)

Q That is 713 B.
A Yes.

MR. KAZEMI: Now I'm publishing 713 A. There is one fine photo, your Honor.

THE COURT: All right.

Q I'm showing you, Sergeant Rexhipi, what has been marked for identification as Government Exhibit 535. Do you recognize it?

A Yes.
Q What is that?
A It's a driver's license issued by the State of New York in the name of Betim Kaziu. Also a cellphone.
MR. KAZEMI: The government offers Exhibit 535.
MR. STEINGLASS: No objection.
THE COURT: Received.
Q Now, Sergeant Rexhipi, I'm showing you an item that has been marked as Government Exhibit 702 for identification.
A Yes.
Q Do you recognize that item?
A Yes, I do.
Q What is that?
A A driver's license issued by the State of New York in the name of Betim Kaziu.
Q Where was that seized?
A The apartment where Betim Kaziu lived.
Q Was that seized at the apartment or somewhere else?
A No, this was taken from -- Betim had the driver's license with him and we took it from him.
MR. KAZEMI: The government offers 702.
THE COURT: Any objection?
MR. STEINGLASS: No, your Honor.
THE COURT: Received.
(So marked.)

THE COURT: Will you take it out of that evidence envelope, please.

MR. KAZEMI: Yes, your Honor.

Thank you, your Honor. No further questions.

THE COURT: Thank you, Mr. Kazemi.

Mr. Steinglass.

MR. STEINGLASS: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. STEINGLASS:

Q Sir, at the home of Bajram Berisha that was searched on the date that you mentioned, one of the items that was found there was an air rifle; is that right?

A Where?

Q The home of Bajram Berisha.

MR. ARIAIL: Objection.

THE COURT: Sustained as to form.

Q You said earlier today that, if I have it right, that there was a search I think on August 27th of 2009 of two places; is that right, that you participated in?

A Yes.

Q Was one of these places --

MR. KAZEMI: Objection, your Honor.

THE COURT: Come up.

(Sidebar.)

MR. ARIAIL: Your Honor, the issue is, Mr.

Steinglass appears to be inquiring about the recovery of an air rifle at the Bajram Berisha house.

THE COURT: That is one of the two searches?

MR. ARIAIL: Yes.

If Mr. Steinglass inquires as to the search, the recovery of the air rifle presumably to suggest that the defendant didn't have access to serious weaponry at that location, that would be completely contradictory to what we know to be the truth, which is at that location, in addition to the air rifle, there was an AK-47 recovered; there were at least 60 or 70 bullets; there was a 9-millimeter pistol, a shotgun; there was a hand grenade, a grenade launcher.

So, to the extent that he inquires on that issue, he opens the door to inquiry and further introduction of evidence by the government as to the access to the other weapons.

I want him to be on notice before he goes through that door. We endeavored not to bring those things in, but once he opens that door we think that we are completely entitled to bring that in to show the defendant had access to weapons.

THE COURT: Just so I'm clear. The other stuff you mentioned was also seized at that location?

MR. STEINGLASS: I can withdraw the question.

MR. ARIAIL: The AK-47, the grenade, the rifle, shotgun, that was also seized at Bajram Berisha's house, separately at Mr. Berisha's personal residence. There are five grenades at least, an AK-47 with a large quantity of ammunition.

We have gone out of our way not to bring that in to prejudice the defendant. They are opening the door. This was --

THE COURT: I think I understand. It sounds like the issue is off the table.

MR. STEINGLASS: Yes, your Honor.

THE COURT: At least temporarily.

MR. STEINGLASS: I don't know what they are planning to induce from Bajram Berisha's testimony or not because I haven't seen their objections until today. They were handed to us a moment ago.

THE COURT: You've taken the question off the table. We don't have an issue to deal with right now.

MR. KAZEMI: The witness did answer the question so we ask that it be stricken from the record.

THE COURT: Any objection?

MR. STEINGLASS: No.

THE COURT: Granted.

(Open court.)

THE COURT: I told you that would happen from time to time. Thanks for your patience.

BY MR. STEINGLASS:

Q Sir, you were shown a little while ago two exhibits which we are calling 713 A and B. The interpreter interpreted your answer about these two items, which I'm holding up, perhaps you should try to put them on the screen --

THE COURT: You're holding up the answers? I don't understand.

MR. STEINGLASS: 713 A and B.

THE COURT: You're holding up the exhibits.

Go ahead. Put them on the screen, if you wish.

Q Is this a catalogue; is that right?

A Yes. How the weapon is being used, about.

Q What is the word that you used in your language for catalogue?

A Manual.

Q Manual?

A Manual.

Q And did you have occasion at some point to look inside this manual, what you call a manual?

A We just took photographs, took pictures and collected them.

Q This is a photograph of the outside of this item, right?

A Yes.

Q Do you have any photographs of the inside of it?

A No.

Q Do you know how many pages were inside?

A How many pages?
Q Yes.
A I don't know.
Q Did you yourself at some point actually look inside this item?
A Just for that moment.
Q You mean when you were at that place, at that apartment on that night?
A Yes.
Q Is there another word besides manual in your language for the word catalogue?
A Can you repeat the question.
Q Well, let me ask it this way. In English we would draw a difference, a distinction between a manual as how to do something and a catalogue, various items that is not how to use something -- is there such a distinction in your language?
A We use only one word. The other one that can be used is like handbook.
Q I can't hear you, the other one is --
A A handbook.
Q All right. Let me move on to something else. You said that the main police headquarters, if I have it right, is in a place called Pristina, in Kosovo?
A Yes.
Q And how far is the City of Prizren, where you work, from

Pristina?
A Forty-six kilometers.
MR. STEINGLASS: I cannot hear the interpreter's answer.
A Forty-six kilometers. Sorry.
Q What kind of way is there to get from one place to the other, some kind of highway or something similar?
A It's not a highway. It's just a street. It's an asphalted one.
Q Regular two-way road?
A Yes.
Q And there is a place called Camp Bondsteel not to far from Prizren; is that right?
A Yes.
Q And that is a U.S. military installation; is that right?
A Yes.
Q And how far is Camp Bondsteel from Prizren?
A About one hour by car.
Q Have you ever been to Camp Bondsteel?
A Not inside.
Q But you've been to, what, the entry place or someplace near it?
A I passed through the street close to the entrance because the street to a place called Vitan, or VT, goes from there.
Q When was this, sometime in the last year or two?

Withdrawn. Sometime on or before August 27, 2009?
A I don't remember the date.
Q Was it around 2009 or so?
A I don't remember, I don't know.
Q Within the last three or four years?
A I don't remember when because I have no connection with this part. I remember that I have passed close but I don't remember when.
Q When you did pass by on that occasion you saw guards at the entry?
A The camp is not very close to the street and I was not interested to see if there were guards or not, but the camp can be seen from the street.
Q From what you could see, was that the kind of entry that you could just drive in if you wanted to or was that the kind of entry where there was some kind of a gate that you have to stop at, do you recall?
A I was not interested to see into those kind of details.
Q Yes, I understand. But I'm asking you to the best of your memory what do you remember in that regard?
A It has been a long time when I went close to that place and usually I don't go and I'm not interested about that part so I don't remember.
Q Can you tell us what city or town Camp Bondsteel is located in?

A It's in the suburban area of the Town of Ferizataj.

MR. STEINGLASS: No further questions, your Honor.

THE COURT: Thank you, Mr. Steinglass.

Is there anything further, Mr. Kazemi?

MR. KAZEMI: Briefly, your Honor.

REDIRECT EXAMINATION

BY MR. KAZEMI:

Q Sergeant Rexhipi, are there NATO troops in Kosovo?

A Yes.

Q And what is NATO?

A NATO is a military organization, international.

Q Why are they in Kosovo, if you know?

A They were established in Kosovo after the war to take care of the security of Kosovo. Mostly for the protection of the borders.

Q Are there NATO troops elsewhere in the Balkans?

A I don't know.

Q Are there U.S. troops in Kosovo?

A Yes.

Q Are there U.S. troops at Camp Bondsteel?

A Yes.

Q Are there U.S. troops in other parts of the Balkans?

A I don't know exactly where.

Q Why are there U.S. troops in Kosovo, if you know?

MR. STEINGLASS: Objection.

THE COURT: Sustained.

MR. KAZEMI: No further questions.

MR. STEINGLASS: May I?

THE COURT: Is there anything further, Mr. Steinglass?

MR. STEINGLASS: Yes, your Honor.

RECROSS EXAMINATION

BY MR. STEINGLASS:

Q Sir, you just referred to a war in Kosovo, I believe is what you said. Can you tell us when, approximately, that was?

A Yes. It happened in 1998, 1999.

Q Was this essentially a war for Kosovo's independence?

MR. KAZEMI: Objection, your Honor.

THE COURT: You brought it up. I will allow a little bit of it. Overruled.

A It was a liberation war.

Q And in this liberation war, the United States helped Kosovo in that war; is that right?

A Yes.

Q And the United States is still helping Kosovo maintain its independence; is that right?

A Yes, as I told you, yes.

Q And many people in Kosovo are very grateful to the United States for the United States's help in the liberation war and maintaining and gaining Kosovo's independence; is that right?

A Yes.

MR. STEINGLASS: Nothing further, your Honor.

THE COURT: There's nothing further, is there?

MR. KAZEMI: Nothing from the government, your Honor.

THE COURT: You're excused. Have a good day.

(Witness excused.)

THE COURT: Let's take our morning break. Don't discuss the case. All rise.

(Jury leaves.)

THE COURT: Please be seated. Before we take our break let me be sure I understand the contours of this dispute about the testimony of the next witness about the statements that he will say were made by the defendant.

If I have it right -- and this is a useful way of putting it to me -- the information that's on these 302s, generally speaking, what the government seeks to not elicit from the witness is what is crossed out here and what you highlighted in yellow, Mr. Dratel, is the information that you think ought to be included among the statements attributed to Mr. Kaziu, correct?

MR. DRATEL: With the exception of one or two sentences. I've gone back over and tried to trim it some more, but, yes.

THE COURT: As I understand the legal landscape, the government is permitted to offer statements by the defendant against the defendant, but when statements by the defendant are offered by the defendant himself the same avenue of admissibility is not available, you have a hearsay issue to deal with and my understanding of the governing principle is, to the extent, and only to the extent that what the government seeks to leave out renders misleading or -- basically renders misleading what it purports to elicit do you have a legitimate claim that needs to be included.

Do you agree with that, that is the legal principle?

MR. DRATEL: Not completely.

THE COURT: Go ahead.

MR. DRATEL: The Rule 106 completeness issue is obviously one part of it, but that only covers certain parts of it and that is really about getting a full picture of the relationship, and I think most of what the government has cut out in terms of narrative parts of it are about the relationship with Blerim Skoro, and in order to put that in its proper context and its full context, the stuff that is left out, there is really no reason to leave it out compared to what is left in other than essentially reducing the chronology in a way that we think narrows it to the point where it does not provide the complete picture and that the -- I'm not -- I know the court knows the rule of completeness, but in the context of fairness and justice, which what is the rule and all the cases talk about, I think that those should come in as well, the paragraphs that talk about the time frames and how he got to Kosovo, what the relationship was there as opposed to just very narrow limited parts of it, about using weapons or trying out weapons, which is what the government will reduce it to. It's really a much fuller chronology than that.

THE COURT: Just to keep them separate so we're on the same page about what rule is being applied. I really don't understand you to be saying other than what I'm saying.

MR. DRATEL: No, no, that was the first part. That has to do with narrative.

Then there are some other parts that are not hearsay at all. Those reflect the state of mind of Mr. Kaziu. So for example, some of them -- most of them are state of mind in the context of the classic -- United States v. Dimaria, 727 F.2d, 265, Second Circuit, 1984. That is the essential case and all the cases following since then is that a defendant --

THE COURT: There are many more cases distinguishing Dimaria.

MR. DRATEL: I understand. It's right in there. It's there with the classic Hillman evidence that dates back to the 1890s in the Supreme Court about which is where the rule comes from, state of mind.

In terms of his intention; I plan to go to Pakistan for a month and come back. I plan to go back to the United States. Those types of intention issues I think are not hearsay at all. So in that sense they don't require 106.

They are outside the hearsay rule entirely. Self-serving doesn't matter, Dimaria's clear on that, that is a Wade issue not admissibility and the declarant's availability is also irrelevant.

THE COURT: Understood. Which of those fall within that latter narrower doctrine?

MR. DRATEL: I'm looking right now at AC-4, which has a lot fewer issues and that one I think is just -- that one has to do with completeness, those two paragraphs at the bottom.

Six is the one that has a much more -- much higher volume of material that we're talking about.

Page two of six, the second full paragraph. A statement of intention.

THE COURT: Okay. The Hillman doctrine and Dimaria are separate principles, right?

MR. DRATEL: Yes.

Then page five. If you look at the last sentence of the second full paragraph, the one -- they all again Kaziu advised, but the one that says Kaziu advised that he has been communicating, he was planning on staying in Cairo for a while to --

THE COURT: Slow down. I got it.

MR. DRATEL: You see the sentence your Honor?

THE COURT: Yes.

MR. DRATEL: Then on page, bottom of page six, the last sentence, last paragraph, two lines, about his intention about traveling.

THE COURT: Yes.

MR. DRATEL: To stay for one month. I think that's it on the intention.

THE COURT: Okay.

MR. DRATEL: The third part, this really relates to two paragraphs, and I will enumerate right now, which is in six on page two, paragraph in the middle of the page, when asked about the video of himself on the coastline. That's one.

THE COURT: Sorry? Where is it?

MR. DRATEL: Page two, on AC-6, AC-6, the longer one, the longer 302.

THE COURT: Got it. I have my eyes on the paragraph. What is the point you're making?

MR. DRATEL: Let me enumerate the other paragraph, if I may, your Honor. It's in the same one. Actually I thought it was the other one, but the same one, the bottom of page three on to page four, that paragraph that ends page three and goes on to page four. It talks about the Statue of Liberty.

In addition to state of mind, your Honor, because it really asks a why question essentially and he answers why, which is state of mind. But in addition, the government's expert particularly with respect to the -- with these videos the government's expert is going to be asked to opine on this and here we have a version of it that -- I mean, if I'm going to be allowed to cross-examine the expert on it, because it doesn't necessarily have to be admissible to do that, or admitted to do that, that's one thing, but I thought I would get it in here, but if the court would let me do that with the expert there is really no need to do that now.

THE COURT: Let's take baby steps. Right now the government wants to elicit what it says are statements of the defendant.

You're saying that when it does so, whatever happens with the expert or doesn't happen with the expert, maybe it will come up again, but here you're relying on Rule 106, which, I think in this context, since it's not a recorded statement, kind of look at it through the filter, if I read the case law right under Rule 611 of the Federal Rules of Evidence, and on this dimension the question is whether, to use the Circuit's language, it's whether the portion of the statement that the government seeks to keep out are explanatory and relevant to the portions it wants in. That's one piece of its inquiry.

MR. DRATEL: Yes.

THE COURT: The second piece of it, as I understand your argument -- I think it's a good one, at least with respect to those statements you just identified -- is it's a statement of the defendant -- but it doesn't matter -- the declarant's then existing mental state that is an intention to do something. Hillman was going to go to Alaska.

MR. DRATEL: Crooked Creek. That's all I remember.

THE COURT: That seems like a pretty good argument to me as it relates to these excerpts you just identified.

Is there a third piece now or is the third piece linked up to the second piece?

MR. DRATEL: The third piece is really about the state of mind. He's asked what -- it's his state of mind in making those videos. That is one part. The second part would be the expert as well. They would come in anyway in cross-examination of an expert who would be opining on these videos.

THE COURT: I think the breath of this state of mind avenue is not what you want it to be, but I understand it.

Anything else you want to say?

MR. DRATEL: Yes. This may be obviated by the government's examination, but I don't know whether -- there are some parts that remained in, the parts that the government did not excise that relate to Mr. Kaziu's declining to name someone here and there.

I think there are two instances where it says he didn't give the name of the person, although he described his relationship and what they did together, and I don't know whether the government intends to elicit that but we would obviously object because it's really a comment on his invocation of his rights with respect to particular questions and information, and it's sort of a comment on his sort of, I guess -- a functional invocation even if it's not an explicit invocation.

THE COURT: I'm sorry. What are you talking about?

MR. DRATEL: Let me try again. There's one part in six, I think, which I've underlined in pen as to opposed to highlighted.

THE COURT: Would not provide any further information?

MR. DRATEL: Right. If the government would not elicit that --

THE COURT: Are you going to elicit that?

MR. KAZEMI: I haven't seen it, your Honor.

MR. DRATEL: Let me show Mr. Kazemi.

(Pause.)

MR. KAZEMI: The government does intend to elicit that statement.

THE COURT: All right. So the statement is, he's not going to give any more information about Sulo, including his last name?

MR. DRATEL: Right. The government is not going to elicit it.

MR. KAZEMI: The government does intend to.

MR. DRATEL: Does intend?

THE COURT: I don't understand why that implicates the Fifth Amendment.

MR. DRATEL: He's essentially not answering a specific question. What is that person's name? He says, I'm not telling you the name.

THE COURT: That's overruled. The government can elicit that.

MR. DRATEL: Part of this issue with respect to -- if you notice, your Honor, in the government's redactions, proposed redactions of 302s, if you look at page one of four, I guess, it starts out where they want to excise the name Blerim Skoro every time. The person has a name. Mr. Kaziu gave the name, so that's not one where we declined to.

THE COURT: I understand. You're not going to elicit the name?

MR. KAZEMI: We intend to refer to Blerim Skoro as an associate.

MR. DRATEL: We would object to that for two reasons. He has the name, he gave the name. He has another nickname --

THE COURT: Since when are we policing the terminology used in a direct? You'll get up on cross and use the name.

MR. DRATEL: That's fair.

THE COURT: All right.

MR. KAZEMI: There are a couple of points. I'll try to address each one first.

THE COURT: Do that one first.

MR. KAZEMI: With regard to the recording?

THE COURT: Yes.

MR. KAZEMI: The government does not intend to elicit any testimony regarding the Statue of Liberty recording or the recording on the beach, so to the extent that there is a rule of completeness issue it doesn't apply here.

THE COURT: My fault. There are some statements here. Here they are specifically: Kaziu said he was planning on continuing school in Cairo. He wanted to travel to Macedonia to see his family. His bank card was taken. He couldn't afford to leave Kosovo.

Then he advised that he was planning on staying in Cairo for awhile to finish studying and planning on coming back to the U.S. Then lastly he advised he was planning to spend a month in Pakistan and then travel back to Cairo, Egypt.

I think, I mean, I haven't had a chance to research this, I just got this argument now, but I think that falls right into the heartland of that Hillman doctrine and therefore it's not inadmissible hearsay. It can be offered for the truth.

MR. KAZEMI: Your Honor, 803.3 obviously states that a statement of the defendant's then existing state of mind, emotion, sensation or physical condition, such as intent, plan or motive, is not hearsay; however, it does not include a statement of memory or belief to prove the fact remembered or believed.

And that is the reason that Mr. Dratel is suggesting that that statement from the defendant should come in, it's to prove that at a future date he was to return from Pakistan.

The government is simply eliciting that he had plans to travel to Pakistan --

THE COURT: Wait. What you just said is a non sequitur, it is not offering a statement of his state of mind to proof an historic fact. He's offering a statement of his present existing state of mind as proof of what he intended to do in the future.

MR. KAZEMI: Fine, your Honor.

THE COURT: All right. So those are admissible. You can elicit them yourself if you want, otherwise I will allow -- in either event, I'll allow counsel on cross of your witness to elicit those.

Anything you want to add to your rule of completeness based arguments, either of you?

MR. KAZEMI: Regarding the recordings, the government's position --

THE COURT: What recordings?

MR. KAZEMI: The recordings that the defendant described in his post-arrest statements, the recording on the beach and --

THE COURT: Sorry. I think I have this right. None of these statements is recorded, correct?

MR. KAZEMI: No, they are not recorded.

THE COURT: Yes, correct?

MR. KAZEMI: Correct, they are not recorded.

THE COURT: You're talking about statements about recordings?

MR. KAZEMI: He's describing his -- he's describing videos that he took himself of, a video of himself on a beach and he's giving a self-serving interpretation of that video to Detective Crimmins.

The government does not intend to elicit any testimony from Detective Crimmins about that video, so if the defendant wants to testify that in the video it was just a video saying that you should live each day as if it's your last day, which is what he told Detective Crimmins, and that it's not inculpatory, he's free to take the stand, but. Mr. Dratel should not be allowed to elicit through Detective Crimmins the defendant's self-serving hearsay interpretation of that video.

THE COURT: I take it your argument is that even if the video were testified to, these statements would still be inadmissible?

MR. KAZEMI: Sure. It's self-serving hearsay.

THE COURT: Anything further?

MR. DRATEL: Again, the self-serving part I think is not an issue because it really is about weight. The availability of Mr. Kaziu to testify --

THE COURT: If it weren't self-serving you wouldn't be offering it.

MR. DRATEL: The availability of Mr. Kaziu is also irrelevant. We're not looking for completeness on those two issues, we're looking really for state of mind and also because essentially they're going to come in any way.

THE COURT: If they come in any way that will moot this whole issue, but they're not coming in now on this ground.

I've reviewed these carefully and the only question before me now, separate and apart from the Hillman doctrine statements which I've ruled admissible -- I think Mr. Dratel is right about that -- I don't believe these other statements that the defendant wants to offer are admissible. I think the hearsay rule precludes them.

The failure to elicit them does not in any sense render misleading or incomplete the statements the government intends to elicit. You have your objection but it's overruled.

MR. DRATEL: Thank you, your Honor.

THE COURT: We'll resume in five minutes. Have the witness on the stand.

Five minutes.

MR. STERN: Before that, your Honor? We need to speak to Mr. Kaziu. We may have something to -- I don't know how to say this -- we may have something to address to you at the end of the break before the jury comes out. If we could have one minute then?

THE COURT: Yes. You have it.

We will break for five minutes.

(Recess.)

(Continued next page.)

THE COURT: Let's bring in the jury. I'll get the jury. Please get your witness on the stand.

MR. KAZEMI: We have three stipulations to read into the record before the next witness. They're connected to the previous testimony.

MR. ARIAIL: In terms of the witnesses, we anticipated the next witness would be the cooperating witness. There's some coordination that needs to take place with the marshals in terms of getting him to the courtroom. I think this next witness and the stips would probably take about an hour, and it may be appropriate to take a break for lunch at that point.

THE COURT: We'll take a break to bring him up for lunch or not. You need a few minutes to get him up and on the stand?

MR. ARIAIL: Yes, your Honor.

THE COURT: Is your witness here?

MR. DuCHARME: Yes.

THE COURT: He can come in, be bored by the stipulations as well as the rest of us. Please come up.

Good afternoon.

THE WITNESS: Good afternoon, your Honor.

(Jury enters courtroom.)

THE COURT: Please be seated.

Sorry, we kept you waiting a little bit. We've been working out here, so you know. It's not like we all took a 40-minute break.

We're ready to proceed. Before this witness, new witness, you see on the stand is sworn, I'm told by Mr. Kazemi there are stipulations the government is going to read to you, a stipulation being the result of both sides to a case agreeing that certain facts can be considered by you as proven, so they stipulate to them. It eliminates the need to call witnesses to testify to these facts.

You'll learn in a few minutes the facts that have been stipulated to by the parties. You should consider those facts to be proved for purposes of this case. Obviously the weight you give, the significance, is up to you, the jury, as is all the other evidence in the case but the fact you'll be told, a stipulation is considered proved.

You can skip all the preliminaries in the stipulation, just read the facts.

Are you offering it into evidence, physical written stipulations or are these oral?

MR. KAZEMI: Yes, physical stipulations as well as some additional evidence.

THE COURT: Make sure you give us the exhibit number on the stipulation itself and, obviously, whatever exhibits you're moving in based on the stipulation.

MR. KAZEMI: Will do.

The first stipulation is marked as Government Exhibit 1104, indicates if called as a witness, Kosovo Police Sergeant Ymridin Bellalari would testify that Government Exhibit 714 is a Nokia cellular telephone recovered on or about August 27th, 2009, from the person of Betim Kaziu shortly after his arrest, based on the foregoing stipulation testimony, Government Exhibit 714 is admissible.

If called as a witness; Kosovo Police Sergeant Ymridin Bellalari would testify that Government Exhibit 707 is a wallet recovered on or about August 27th, 2009 from the person of Betim Kaziu shortly after his arrest and Government Exhibit 707 A through 707 J are materials that were contained inside Government Exhibit 707 at or about the time it was recovered on August 27th, 2009. Based on the foregoing stipulated testimony, Government Exhibits 707 and 707 A through J are admissible.

This stipulation may be received in evidence at trial.

At this time, the government offers Government Exhibit 1104 of the stipulation.

THE COURT: Received.

(So marked.)

MR. KAZEMI: 714 which is the cell phone, with your Honor's permission, publish it to the jury?

THE COURT: Received, yes, you may.

MR. KAZEMI: 707 A through J as well as -- 707 is the wallet.

THE COURT: Received.

MR. KAZEMI: 707 A through J are various items recovered from the wallet.

THE COURT: As a group you seem determined not to use the technology.

MR. KAZEMI: I will.

THE COURT: A bunch of dinosaurs here.

MR. KAZEMI: This is 707 A, B, C, D, E, F, 707 G, 707 H, 707, and 707 J.

(Displayed on Elmo.)

MR. KAZEMI: The government offers those.

THE COURT: All right. I received them but I'll receive them again.

MR. KAZEMI: Turning to the next stipulation, it's Government Exhibit 1107.

If called as a witness, FBI Special Agent Vincent Browning from the FBI Computer Analysis Response Team would testify that Government Exhibit 715 is a true and correct copy of electronic data extracted from Government Exhibit 714, a Nokia cell phone. Based on the foregoing stipulated testimony, the data contains Government Exhibit 715 is admissible. If called as a witness, FBI Special Agent Vincent Browning from the FBI Computer Analysis Response Team would testify that Government Exhibit 601 A is a true and correct copy of the hard drive of the defendant's laptop, Government Exhibit 601. Based on the foregoing stipulation and testimony, Government Exhibit 601 A is admissible and this stipulation may be received in evidence at trial.

At this time the government offers the stipulation, Government Exhibit 1107.

THE COURT: Received.

(So marked.)

MR. KAZEMI: Government Exhibit 715 which is the extraction report.

THE COURT: Received.

MR. KAZEMI: Government Exhibit 601 A, the image of the hard drive.

THE COURT: Received.

(So marked.)

MR. KAZEMI: One final stipulation. Marked as Government Exhibit 1109.

If called as a witness FBI Special Agent Vincent Browning from the FBI Computer Analysis Response Team would testify that Government Exhibit 716 is a true and correct copy of electronic data extracted from Government Exhibit 717, a Mobinil sim card. Based on the foregoing stipulated testimony, the data contained in Government Exhibit 716 is admissible. This stipulation may be received in evidence at trial.

At this time the government offers the stipulation marked as Government Exhibit 1109.

THE COURT: Received.

MR. KAZEMI: As well as the report from the sim card, Government Exhibit 716 which I'll briefly publish to the jury with your Honor's permission?

THE COURT: Yes, received.

(So marked.)

MR. KAZEMI: That concludes the stipulations, your Honor.

THE COURT: Would you stand and raise your right hand, sir.

A U S T I N C R I M M I N S

having been duly sworn/affirmed, was examined and testified as follows:

THE COURT: Please be seated. State and spell your name.

THE WITNESS: Austin Crimmins, C-R-I-M-M-I-N-S.

MR. KAZEMI: May I proceed?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. KAZEMI

Q Good afternoon, Detective Crimmins.

A Good afternoon.

Q Who do you work for?
A New York City Police Department.
Q Is there a specific unit you work for?
A Assigned to the FBI Joint Terrorist Task Force.
Q Does that go by JTTF for short?
A Yes.
Q Your title?
A Detective.
Q How long have you worked as a detective at the Joint Terrorism Task Force?
A Six years.
Q Is there a particular squad that you work for?
A Yes, CT3.
Q What do they cover?
A Right now Africa.
Q Where you working before the Joint Terrorism Task Force?
A 44th Precinct in the Bronx.
Q Title there?
A Detective.
Q How long were you there?
A Six years.
Q What types of investigations did you handle there?
A Homicides, robberies, shootings, felony assaults.
Q Have you been involved in an investigation of an individual named Betim Kaziu?

A Yes.
Q I would like to direct your attention to August 27th, 2009. Were you working as a JTTF detective at that time?
A Yes, I was.
Q Where were you working at that time?
A I was in Prizren, Kosovo.
Q Did there come a time when Betim Kaziu was arrested?
A Yes, there was.
Q Approximately when was that?
A 9:30 p.m. August 27th, 2009.
Q Did you personally participate in his arrest?
A No, I did not.
Q What did you do next in connection with the investigation?
A We, along with the Kosovo Police Service, went to his apartment, along to a friend's house.
Q You say you went to an apartment. What did you do?
A The Kosovo Police Service conducted a search warrant.
Q How many searches were conducted?
A Two that night.
Q Could you just repeat again for the jury where the searches were conducted?
A The first search at his apartment in Prizren; the second search was at a friend's house in Prizren.
Q You say his apartment. Who are you referring to?

A Betim Kaziu.
Q Who is leading the searches?
A Kosovo Police Service.
Q What is your role?
A Observer.
Q Approximately how long did the search take?
A Five hours.
Q What did you do after the searches were completed?
A Myself Legat Attache Frank Teixeira went to the Kosovo police station in Prizren.
Q What happened after you arrived at the police station?
A We interviewed Betim Kaziu.
Q I would like to show you what's been marked for identification as Government Exhibit 101.
MR. KAZEMI: May I?
THE COURT: Yes.
Q Do you recognize that individual?
A Yes, I do.
Q Who is that?
A Betim Kaziu.
Q Is that how he looked on the day of the interview on August 27th, 2009?
A Yes.
MR. KAZEMI: Government offers Exhibit 101.
MR. DRATEL: No objection.

THE COURT: Received.

(So marked.)

Q Do you see Betim Kaziu in the courtroom today?

A Yes, I do.

Q Could you please point him out, identify him by an article of clothing he's wearing?

A He's the first individual at the defense table. He's wearing a pink shirt.

THE COURT: Identifying Mr. Kaziu.

Q Before we go further, let's me ask you, how many interviews have you conducted with Betim Kaziu?

A Two.

Q When did you conduct those interviews?

A The first one was on the morning of August 28th, 2009, and the second one was September 12th, 2009.

Q Had you ever met the defendant before the first interview?

A No.

Q Let's start with the first interview on August 28th, 2009. Who is present for that interview?

A Myself and Legat Attache Frank Teixeira.

Q Where did you conduct the interview?

A In the Kosovo police station in Prizren.

Q What language was the interview conducted in?

A English.

Q Was the defendant handcuffed during the interview?
A No, he was not.
Q Approximately what time did it start?
A Started approximately 4:30 a.m.
Q How did it begin?
A The legat, Frank Teixeira, read him handwritten copies Advice of Rights form which he also read and he agreed to it and signed it.
Q I would like to show you what's been marked for identification as Government Exhibit 1001. Do you recognize that document?
A Yes, I do.
Q What is it. That's a handwritten copy Advice of Rights form?
Q Which Advice of Rights form?
MR. DRATEL: Is this in front of the jury?
THE COURT: No.
MR. DRATEL: I thought they were looking at the screen.
THE COURT: Looking at their reflections.
Q Which Advice of Rights form?
A That Betim Kaziu signed along with myself and Legat Frank Teixeira.
Q How do you know it's the same form?
A I signed it, Legat Frank Teixeira signed it, also Betim

Kaziu signed it, dated August 28th, 2009.

MR. KAZEMI: Government offers 1001.

MR. DRATEL: Objection, hearsay.

THE COURT: Overruled. Received.

(So marked.)

Q During your interview on August 27th, did you cover just one topic or a number of topics?

A No, we covered several.

Q Did the defendant provide any pedigree information?

A Yes, he did. He stated he was born in the United States; date of birth was February 1st, 1988, resided in Brooklyn, New York.

Q Did he discuss his travel history?

A Yes, he stated prior to arriving in Kosovo, he was in Cairo, Egypt. On July 24th, 2009, traveled from Cairo Egypt to Pristina, Kosovo via Turkish Airlines. From Pristina, an associate picked him up, took him to Prizren, Kosovo, stayed in an apartment by himself.

Q Did he tell you if he purchased tickets for future travel plans?

A Yes. He said he was going to go to Macedonia. From Macedonia, he was going to go to Pakistan on September 15th, 2009.

Q Did he say where in Pakistan?

A No.

Q Did he tell you he had tickets already, had already tickets for the flight to Pakistan?
A Yes, he said he purchased them at a travel agency near his apartment in Prizren.
Q Did you discuss his living arrangements at all?
A Yes.
Q What did he say about that?
A He stated he lived alone in his apartment. He had a two-bedroom apartment in Prizren, lived alone.
Q Did he identify any of his possessions?
A Yes, stated he had a laptop computer, black Adidas bag with the black Adidas bag, would have cologne, keys, cell phone and he also had an air rifle magazine in his apartment.
Q What?
A Air rifle magazine in his apartment.
Q Regarding the laptop, did he tell you who used the laptop?
A Solely he used it.
Q Did he tell you what he used it for?
A Yes, he used it to check out YouTube, Facebook and My Space web sites.
Q Did he mention anything about any e-mail addresses he may have used?
A Yes, he stated he utilized two web site addresses, e-mail addresses.

Q Do you remember which ones?
A Yes, one was Shutupnliisten@aol.com and the second one was AbdulRahman1988@hotmail.com.
Q Do you remember the spellings of those e-mail addresses?
A Yes, shut up and listen, basically shut up but instead of the "and," it was just the letter N and listen with two I's instead of one I.
Q The other one?
A Abdul Rahman, AbdulRahman1988@hotmail.com.
Q Did you ask for consent to search his laptop?
A We did.
Q What did he say?
A He said it was okay. He gave us written consent.
Q Did he also tell you where his laptop was located?
A Yes, he stated his laptop would be at his friend's house.
Q I'm showing you what's been marked for identification as Government Exhibit 2002. Do you recognize that document?
A Yes.
Q What was that?
A That's the consent for his computer, where he left his computer. It's signed by myself along Legat Frank Teixeira and Betim Kaziu, dated August 28th, 2009.
MR. KAZEMI: Government offers 1003.
MR. DRATEL: No objection.
THE COURT: Received.

Q Did the defendant tell you what items would be found on his laptop?
A Yes, he stated there would be YouTube videos of religious sermons, videos of Mujahideen fighting Russian fighters in Afghanistan, video of U.S. military operations, also a video of a National Geographic video of fighters using AK-47 rifles and also of the Taliban fighting Russian and U.S. forces.
Q Did he say anything about the nature of the videos?
A He stated it would be graphic with explosions.
Q Did he tell you whether he chatted on line, participated in online chatting?
A He said he did not chat on line.
Q You mentioned a cell phone earlier. What did he say about the cell phone?
A Said he had a cell phone that he purchased in Cairo, Egypt but didn't know the number because he paid cash for it.
Q Did he mention anything about ever handling a gun?
A Yes, he stated he was at a friend's house up in the mountains and he held a gun.
Q Did he say or do anything else with respect to that gun?
A Yes, he drew a sketch of it.
Q I'm showing you what's been marked for identification as Government Exhibit 1003. Do you recognize that?
A Yes, it's the sketch that Betim Kaziu drew of the gun he held.

Q How do you know it's the same sketch?
A He signed his name and it's dated August 28th, 2009.
MR. KAZEMI: Government offers 1003.
MR. DRATEL: No objection.
THE COURT: Received.
(So marked.)
Q I would like to direct your attention to the second interview which took place on September 12th. Who was present for that interview?
A Myself, Special Agent Stefanie Roddy of the FBI.
Q Where did you conduct that interview?
A In the Duprav Prison (ph) in Istaq, Kosovo.
Q What language was the interview conducted in?
A English.
Q Was the defendant handcuffed during the interview?
A No.
Q What time did it start approximately?
A 12:45 p.m.
Q How did it begin?
A We introduced ourselves and we gave him an Advice of Rights form. I read them aloud, the Advice of Rights form, which he understood and signed along with myself and Special Agent Stefanie Roddy.
Q That was a written form?
A Yes -- no, it was the standard form.

Q I'm showing you what's been marked as Government Exhibit 1004 for identification purposes. Do you recognize that document?
A Yes, I do.
Q What is that?
A That's the Advice of Rights form which is signed by me along with Special Agent Roddy and Betim Kaziu dated September 12, 2009.
MR. KAZEMI: Offers Government Exhibit 1004.
THE COURT: Any objection?
MR. DRATEL: No.
THE COURT: Received.
(So marked.)
Q During that second interview, did you cover one topic or several topics?
A No, we covered several.
Q Did he discuss, the defendant, discuss his pedigree information?
A Yes.
Q What did he say?
A He was from the United States, born February 1st, 1988.
Q Did he discuss his travel history?
A Yes, he stated approximately six months prior he traveled from New York to Cairo, Egypt with a friend of his. He said his friend left to go back to Montenegro to visit in

Montenegro. He said his friend was a friend from New York. He stated from Cairo, Egypt, he traveled to Pristina to Prizren.

Q Did he mention if he kept in touch with the friend?

A He said he sent e-mails to him.

Q Did the defendant tell you anything about his future travel plans?

A Yes, he stated he was planning on traveling to Macedonia, then to Pakistan.

Q Did he give you a date?

A Yes, September 15th, 2009.

Q By the way, I forgot to ask you a question earlier in connection with the first interview. You mentioned the defendant told you about his travel plans for Pakistan; is that correct?

A Yes.

Q Did he mention if he knew anybody in Pakistan?

A No, he said he did not.

Q He did not know anybody?

A Didn't know anybody.

Q During your first interview, the defendant told you he didn't chat on line; is that correct?

A Yes.

Q Did the topic of chatting on line come up during the second interview?

A Yes, it did.
Q How did it come up?
A During the consent search of his computer, we found a few chats with the name Sulo and Adem. We asked him who Sulo and Adem was. He stated Sulo was a friend of his from the neighborhood that he's known for a long time, stated he didn't care to give us any more information other than his name which was Sulo, his nickname, wouldn't give us any further information. He said he's known him from the neighborhood.

In regards to Adem, he stated Adem and him spoke about religious things and that they asked about how each other were doing, how they missed each other. He also stated Adem was from the neighborhood and he's known him for a few years, also wouldn't divulge his name.
Q Did the defendant tell you anything about holding a gun?
A Yes, he did. He stated he was at an associate's house. He saw it hanging on the wall, horizontally. He was sitting down, asked to see it. His friend handed, his associate handed it to him and he held it and that was it.
Q Just a couple of final questions. Did he say anything about his living arrangements in Kosovo?
A Oh yes, he stated he lived in a two-bedroom apartment by himself, that all his belongings were in every room in the house; that he stayed there alone and that he only had one key to the residence.

Q Did he say if anyone else's belongings were in the house?
A He said no one else's belongings would be there.
Q Other than your two interviews of the defendant, have you had any involvement in this investigation?
A No.
MR. KAZEMI: No further questions.
THE COURT: Thank you. Mr. Dratel?
CROSS-EXAMINATION
BY MR. DRATEL:
Q Good afternoon, detective.
A Good afternoon, sir.
Q When you first met Mr. Kaziu -- withdrawn. You were at the apartments observing the searches, the apartments?
A Yes.
Q Mr. Kaziu did not put up any resistance when he was arrested, correct?
A Not that I know of, no.
Q When you interviewed him hours later, he waived his rights to remain silent at that time, right?
A Yes.
Q Didn't ask for a lawyer?
A No.
Q Spoke to you for about 90 minutes?
A Correct.
Q Then again on the 12th of September, 2009, same thing,

spoke to you. This is essentially two weeks later?
A Yes.
Q Spoke to you again, waived his rights again in writing and spoke to you for about another 90 minutes?
A Yes.
Q With respect to his laptop, he gave you written consent to search his laptop?
A Yes.
Q In fact, told you where it was?
A Yes.
Q That's what led you to the other person's house, right?
A Yes.
Q For the second search, Mr. Berisha's house?
A Yes.
Q He also told you of his two e-mail addresses he would use?
A Yes.
Q You mentioned an associate. He gave you that associate's name, right?
A Yes.
Q That's the same person in both accounts when you talk about him holding a gun, same gun, same person, Mr. Skoro, two different interviews, right?
A Yes.
Q It's common for people in Kosovo to have weapons

privately, correct?
A I don't know that.
Q Had you been there before in Kosovo or just for this purpose?
A Just that first time, yes.
Q With respect to what he told us you about what was on the computer, he talked about videos and some of the things, National Geographic biography. Did he also tell you some of the videos would have graphic explosions?
A Yes.
Q That was in that first interview?
A Right.
Q He also told you he searched for an air trifle on line?
A Yes.
Q Again, during that first interview?
A Yes, he did.
Q In the second interview, he told you that he was planning on continuing school in Cairo, in Egypt?
A Yes, he said he was planning on it.
Q He stated he wanted to travel to Macedonia to see his family but that his bank card had been taken and he couldn't afford to leave Kosovo?
A Yes.
Q He also told you that he was planning on going back to Cairo, staying there for a while to finish studying and he was

planning on coming back to the United States?
A Yes.
Q He told you that he planned to spend one month in Pakistan, then return to Cairo?
A He said Cairo, yes.
Q He mentioned he said he bought a ticket, correct?
A Yes.
Q Ticket to Pakistan for September 15th?
A Correct.
Q Did you ever find the ticket in your search of those two locations?
A Not that I know of, no.
Q One of the exhibits we saw before was an itinerary of his travel from Egypt through Istanbul to Pristina. You know where Pristina is in Kosovo?
A Yes.
Q Essentially where you have to fly in to get to Prizren?
A Yes.
Q Closest airport?
A Yes.
Q There was an itinerary that was recovered from his personal effects that detailed that trip, correct?
A At his apartment?
Q At his apartment. I think it was at his apartment, yes?
A Okay.

Q You never found an itinerary with respect to any trip to Pakistan, correct?
A Not that I know of.
Q He said a travel agency right near where he lived, right, where he got it?
A Yes, in Prizren.
Q Did you ever check with that travel agency, ever look for a travel agency near his apartment?
A No.
Q Prizren is a small town, correct?
A Yes.
Q Didn't check his ATM card, whether he lost that card? Did you check on it?
A I didn't, no.
Q With respect to pedigree information he gave you, that was correct, correct?
A Yes.
Q E-mail addresses were accurate, right?
A Yes.

MR. DRATEL: May we approach? There are two issues from the previous issue that I believe are at issue here now.

THE COURT: Yes.

(Continued on next page.)

(Side bar.)

THE COURT: Two issues from the previous issue?

MR. DRATEL: With respect to completeness, he elicited that he didn't know anybody in Pakistan. In fact, he was going to travel with Skoro. It leaves it out there he's going to Pakistan all by himself. Here he said he was going with Skoro and Skoro was going to buy his own ticket.

THE COURT: Where is this?

MR. DRATEL: The other was Egypt.

THE COURT: Please be careful when you stand with your back to this door. It opens inward.

You would like to elicit from this witness that Mr. Kaziu told him what? You don't have to find it in there. You would like to elicit that Kaziu told him what?

MR. DRATEL: Traveling to Pakistan with someone else.

THE COURT: Okay.

MR. DRATEL: This other person Skoro.

The second thing, I want to clarify, the detective testified he said he had his own apartment. It was Skoro's apartment he was staying in. He didn't rent the apartment. It says it here.

THE COURT: Is there any dispute in the case he was staying at Skoro's apartment?

MR. KAZEMI: No.

THE COURT: Any objection to him eliciting that?

MR. KAZEMI: No.

(Continued on next page.)

(Open court.)

THE COURT: Thanks again for your patience. Go ahead, Mr. Dratel.

Q Detective, the apartment that Mr. Kaziu was staying in in Prizren, that was at the apartment that belonged to Mr. Skoro, correct?

A I don't know if it belonged to him.

Q That's what he told you?

A Yes.

Q What Mr. Kaziu told you, he was staying in an apartment belonging to Mr. Skoro?

A Yes.

Q He going with Mr. Skoro to Pakistan, that he would be traveling with Mr. Skoro?

A Yes.

MR. DRATEL: Nothing else.

THE COURT: Redirect?

MR. KAZEMI: Yes, your Honor, briefly?

THE COURT: Of course.

REDIRECT EXAMINATION

BY MR. KAZEMI:

Q Good afternoon. Mr. Dratel asked you if the defendant had told you whether he purchased a ticket to get to Pakistan, correct? You remember that?

A Yes.

Q What did he say?
A That he had purchased a ticket to Pakistan at a travel agency near his apartment in Prizren.
Q Did the defendant tell you whether he had purchased a ticket to return from Pakistan?
A No, he did not.
Q Mr. Dratel just asked you if the defendant was living in a residence that was rented to him or provided to him by an individual named Blerim Skoro; is that correct?
A Yes.
Q What did the defendant say in response to that question?
A Yes, he was staying there in the apartment.
Q Mr. Dratel asked you if the defendant had told you whether he would be traveling to Pakistan with this individual, Mr. Skoro?
A Yes.
Q Whose residence was the defendant at when he was holding that gun?
A Blerim Skoro.

MR. KAZEMI: No further questions.

THE COURT: Mr. Dratel?

MR. DRATEL: Just a couple.

THE COURT: Go right ahead.

RE-CROSS EXAMINATION

BY MR. DRATEL:

Q With respect to what he told you about buying a ticket to Pakistan, to be clear, you never found the ticket, right?

A No, I never did, no.

Q Did you ever check with the airline for an itinerary or the ticket?

A No, I did not.

Q Any airline service at Prizren Airport -- rather Pristina?

A No.

Q You didn't check that out?

A No.

Q With respect to a return ticket, he did tell you his intention was to spend one month in Pakistan, then return to Cairo to study, correct?

A Yes.

Q Then afterwards he was going to come back to the United States?

A He said either Cairo or the United States.

Q Ultimately was going to come back to the U.S. after finishing his studies in Cairo?

A He said either/or.

MR. DRATEL: If I may, your Honor?

THE COURT: Yes.

(Pause.)

MR. DRATEL: May I approach?

THE COURT: No, I'm going to train you to use the machine.

MR. DRATEL: Fair enough.

THE COURT: There you go. I'll bring all of you right into the 21st century whether you want to come or not.

MR. DRATEL: Thank you.

Q You see --

THE COURT: Someone give Mr. Dratel a hand with the focusing in, please. You look to your right, you see what the witness sees.

MR. DRATEL: Thank you.

THE COURT: Then you can use a pen or something. If you want a particular point of this 302 you want him to focus on?

Q Right here, if you could read to yourself that sentence?

A Okay.

Q Does that refresh your recollection he told you he was planning on coming back to the United States after studying in Egypt, and the U.S., either/or?

A Yes.

MR. DRATEL: No further questions.

MR. KAZEMI: One moment, very brief?

THE COURT: Go ahead.

REDIRECT EXAMINATION
BY MR. KAZEMI:
Q Detective Crimmins, I'm showing you Government Exhibit 3500 AC 4, directing your attention to this sentences right here. Does that refresh your recollection what the defendant told you on August 28th, 2009?
A Yes.
Q What was that?
A He stated he was going to either go to Cairo, Egypt or the United States.
Q That was in what context?
A After Pakistan.
MR. KAZEMI: No further questions.
MR. DRATEL: Can I do it from here?
THE COURT: Yes.
RE-CROSS EXAMINATION
BY MR. DRATEL:
Q That was August 28th. On September 12th, he said after he was finished in Cairo, he was going to go back to the United States, correct?
A Correct.
MR. DRATEL: Thank you.
MR. KAZEMI: Nothing further.
THE COURT: Good. We're happy to hear that. You're excused. Have a good day.

THE WITNESS: Thank you.

THE COURT: Normally we would go to 1:00 o'clock, break for lunch. We have a logistical problem getting the next witness on the stand.

We'll break now, resume at ten of 2:00. Don't discuss the case. Enjoy your lunch.

(Jury leaves courtroom.)

THE COURT: We'll be needing both the defendant and the witness at the same time. I take it the witness is coming into the courtroom through a different portal, correct?

MR. DuCHARME: Yes, your Honor.

THE COURT: Make arrangements to have him here and on the stand at ten of 2:00, please. See you then. Enjoy your lunch.

MR. DRATEL: Five to?

THE COURT: 10 to 2:00.

(Luncheon recess; continued on next page.)

A F T E R N O O N S E S S I O N

(The following occurred in the absence of the jury.)

THE COURT: Please be seated, everyone.

Thank you.

Mr. Stern, is your client back there?

MR. STERN: I don't know. I'll tell you in one second.

MR. DuCHARME: Your Honor, there is one matter that we may want to address at side bar. It relates to a request from the press to us. I think it requires a ruling by the Court.

THE COURT: Okay. Let's wait until the defendant joins us.

MR. DuCHARME: Sure.

MR. STERN: I am going to hazard to say no because the door to the cell is wide open.

(Pause.)

(Defendant present.)

THE COURT: Yes, Mr. DuCharme?

MR. DuCHARME: Your Honor, after the last session, a member of the press approached the government and asked if the government could make available to the press a copy of the head shot photo of the defendant that's in evidence as Government's Exhibit 101.

The government takes no position with respect to the disclosure publicly of that particular piece of evidence in this trial. We may have a different position with respect to other pieces of evidence as they become available. I know Your Honor is familiar with the standard and the presumption of openness with respect to these proceedings.

My understanding is the defense opposes the release of the picture.

MR. STERN: True. We know the law is not good for us on that. But we oppose.

THE COURT: Okay. With respect, I conclude the objection has no merit. It is in evidence.

So you can make it available.

MR. DuCHARME: Thank you, Your Honor.

THE COURT: All right. Where is your witness?

MR. ARIAIL: Just around the corner, Your Honor.

THE COURT: Are you ready?

MR. ARIAIL: Go ahead and bring him in before the jury?

THE COURT: Yes, please.

MR. ARIAIL: Your Honor, just so the Court is aware, we intend to play number of clipped videos that we previously provided to defense counsel during the testimony of this witness. But just so the Court is aware, and we would use my computer, my laptop computer, to publish it through the court system.

THE COURT: Where is the laptop plugged into?

MR. ARIAIL: It is plugged into the podium.

THE COURT: The podium laptop?

MR. ARIAIL: Yes.

THE COURT: Okay.

(Witness present.)

THE COURT: You can have a seat over here.

Bring in the jury, please, Ilene.

Have a seat, please. When the jury comes in we will all stand. All right?

(Jury present.)

THE COURT: Welcome back.

Everyone except the witness, please be seated.

Alicyn, please swear the witness.

THE CLERK: Yes, Your Honor.

(Continued on next page.)

(The witness is duly sworn/affirmed by the clerk.)

THE CLERK: Please state your name and spell it for the record. You can have a seat.

THE WITNESS: My name is Sulejmah Hadzovic, spelled S U L E J M A H, Hadzovic is spelled H A D Z O V I C.

THE COURT: Go ahead, Mr. Ariail.

MR. ARIAIL: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. ARIAIL:

Q Good morning, sir.

Mr. Hadzovic, have you been convicted of a crime?

A Yes.

Q What crime is it that you have been convicted of?

A Conspiracy to provide material support to terrorists.

Q Did you plead guilty to that crime or did you go to trial?

A I pled guilty.

Q Where did you plead guilty?

A In Brooklyn federal court.

Q When is it that you pled guilty to that crime?

A In September of '09.

Q Can you please tell the jury generally what it is that you did to be guilty of that crime?

A Yes.

Me and another conspired to go overseas and fight jihad in places like Afghanistan, Pakistan, Chechnya, Somalia and Israel.

Q Mr. Hadzovic, when you say another, who are you referring to?

A Betim Kaziu.

Q Mr. Hadzovic, do you see Mr. Kaziu in the courtroom here today?

A Yes.

Q If you could, please, stand up and identify him by a piece of clothing that he is wearing.

A Yes.

Q If you could identify him by a piece of clothing that he is wearing?

A Yes. He's wearing a pink shirt.

Q Just point, if you could, in his general direction.

A Right there.

MR. ARIAIL: Let the record reflect, Your Honor.

THE COURT: Yes, identifying the defendant.

Q Mr. Kaziu -- Mr. Hadzovic, what do you mean by jihad?

A Fighting in war like.

Q What kind of war like fighting do you mean?

A Like wars that happen like overseas, like the war in Afghanistan, Iraq.

Q What -- the countries that you listed there just a minute ago, what is significant about those countries as it pertains

to jihad?
A From my understanding, there is jihad taking place there. There is members of Al Qaeda and Taliban in Somalia. There is Al Shabaab.
Q What steps did you and Mr. Kaziu take to go fight jihad in those countries?
A Our first step was boarding a plane from JFK to Cairo, Egypt. After there, we asked others to facilitate us in getting to places like Pakistan, Afghanistan, Somalia.
Q Who did you ask to get you to Pakistan and Afghanistan?
A One was Armand Kalanderi.
Q Who is it that you asked to get you to Somalia?
A Ahmed.
Q Were there particular groups in those countries that you sought to fight jihad with?
A Yes.
Q Which groups?
A In Pakistan, Afghanistan, with Al Qaeda and Taliban; and in Somalia with Al-Shabaab.
Q Who was it that you sought to fight jihad against in those countries?
A In Pakistan, Afghanistan, it was against US troops and its allies. In Somalia, it was against Somalian government troops.
Q In fighting those -- in fighting in those places, did you

and Mr. Kaziu intend to kill people?
A Yes.
Q Who is it that you intended to kill?
A In Pakistan, Afghanistan, it was US troops and its allies. In Somalia, it was against Somalian government troops.
MR. ARIAIL: May I use the Elmo, Your Honor?
THE COURT: Through your laptop?
MR. ARIAIL: Just the Elmo itself for now.
THE COURT: Oh, okay.
Q I am showing Government Exhibit's 101.
THE COURT: This is in evidence?
MR. ARIAIL: It is in evidence, Your Honor.
Q Mr. Hadzovic, do you recognize this person?
A Yes.
Q Who is this?
A Betim Kaziu.
Q Do you know him by any other names?
A Abu Issa, Abdurrahman Al-Albani and Abdul Wahab.
Q Showing what's not in evidence Exhibit 103.
Do you recognize Government's Exhibit 103?
A Yes.
Q What is this?
A A picture of me.
MR. ARIAIL: I offer 103, Your Honor.

MR. STERN: No objection.

THE COURT: Received.

(Marked.)

Q Mr. Hadzovic, did you use -- do you go by another name?

A Sullo --

THE COURT: Slow down a little bit.

A Sullo and on MSN I used to use Sulejmah Nal/Albani.

THE COURT: Could you spell that, please?

THE WITNESS: My first name then, everything? First name S U L E J M A H, N A L slash A L B A N I.

MR. ARIAIL: Your Honor, permission to public these on the board.

THE COURT: Yes. All right. Granted.

MR. ARIAIL: Just one more, Your Honor.

(Pause.)

Q Mr. Hadzovic, in fighting jihad in those places, did you and Mr. Kaziu plan to use weapons?

A Yes, we did.

Q What sorts of weapons did you and Mr. Kaziu intend to use in those places?

A Weapons like assault rifles, machine guns, RPGs, grenades, things of that sort.

Q Why was it that you intended to use those weapons?

A To fight in jihad.

Q Now, ultimately, Mr. Hadzovic, did you get to one of

those places to fight jihad?
A No, I didn't.
Q Why not?
A Well, during my stay in Cairo, I had a change of heart and I came back to the USA.
Q Did Mr. Kaziu come back with you to the United States?
A No, he didn't.
Q Before you saw Mr. Kaziu this afternoon, when is the last time you saw him?
A In person?
Q Yes.
A In June of '09, at the Cairo airport.
Q Now, how old are you?
A Twenty-one.
Q When were you born?
A August 4, 1989.
Q How old were you when you and Mr. Kaziu left to go overseas to fight jihad?
A Nineteen.
Q How old was Mr. Kaziu?
A I believe, 20.
Q Where is it that you were born?
A I was born in Brooklyn, New York.
Q Where were you born specifically though?
A In Coney Island Hospital.

Q Where did you live growing up?
A I lived in Queens, on Elmhurst. I also lived in the Bronx, and I moved to Brooklyn afterwards.
Q What about your family, where is your family from?
A My father is from Montenegro. My mother is from Kosovo.
Q When did your parents come to the United States?
A I don't know exactly when.
Q Was it before you were born?
A Yes.
Q All right. Without being too specific, could you tell the jury what it is your parents do for a living?
A Yes.
My mother is a housewife and my father is a superintendent.
Q How -- I'm sorry.
A I'm sorry.
He's a superintendent and he also works as a supervisor in the city.
Q How would you characterize your family's lifestyle growing up?
A When we were younger, like we didn't have much. As we grew older and my parents got more jobs, I would say middle class.
Q Kosovo and Montenegro, the countries you mentioned earlier where your parents are from, where were those

countries located generally?
A Eastern Europe; the Balkans, to be specific.
Q Are you generally aware of the countries that make up the area of land that you are referring to as the Balkans?
A Yes.
Q What countries makeup the Balkans, just generally?
A Kosovo, Albania, Montenegro, Serbia, I believe Croatia as well.
Q During the time your parents lived in Kosovo and Montenegro, were they independent countries?
A No, they weren't.
Q Are they independent countries today?
A Yes, they are.
Q Are you generally aware of the history of how Montenegro and Kosovo came to be independent countries?
A Somewhat.
Q Just explain as best you can to the jury how it is that Kosovo and Montenegro came to --
MR. STERN: Objection.
THE COURT: Sustained.
When I say "sustained," don't answer it.
THE WITNESS: Okay.
THE COURT: If I say "overruled," go ahead.
THE WITNESS: Okay.
THE COURT: Sustained.

MR. ARIAIL: Your Honor, I would like to publish another exhibit on the Elmo.

THE COURT: Okay. Is it in evidence?

MR. ARIAIL: It is not. Sorry.

Q Mr. Hadzovic, I am showing you on the screen Government Exhibit 916.

Do you recognize that?

A Yes, I do.

Q What do you recognize that to be?

A A map of the Balkans.

Q What countries particularly?

A Serbia, Kosovo, Macedonia, Montenegro, Albania, Bosnia, Herzegovina, Croatia, Romania and Bulgaria.

Q Have you been to this area before?

A Yes, I have.

Q Generally, does this map reflect the state of political divisions in that area?

MR. STERN: I have no objection to this map.

THE COURT: Received.

Do you want to offer it, I take it?

MR. ARIAIL: I would, Your Honor, 916.

(Marked.)

Q Mr. Hadzovic, if you could, where is Kosovo on this map?

A The --

THE COURT: Let me guess. It's where it says

Kosovo.

THE WITNESS: It's right here.

Q And Montenegro, where is it?

A Right here.

Q Okay. The witness is referring to the picture on the map.

Other than English, do you speak any other languages?

A Yes.

Q What languages?

A Serbia and Croatian.

Q Are you religious?

A Yes, I am.

Q What religion?

A Islam.

Q Growing up, did you consider yourself to be a Muslim?

A No. I mean, I did consider myself to be a Muslim but not religious.

Q Were you observant?

A Growing up?

Q Yes, growing up.

A No.

Q When is that you started to become more observant, if you did?

A Around 17.

Q Mr. Hadzovic, are there differing sects within the Islamic religion?
A Yes, there are.
Q What are the sects, as you understand?
MR. STERN: Objection.
THE COURT: Overruled.
A There is Sunni Islam; there is Shi'a Islam; there is Sufi Islam.
Q Could you explain to the jury, to your knowledge, what generally are the differences between Sufi and Sunni and Shi'a Islam?
MR. STERN: Objection.
A Yes.
THE COURT: Sustained.
Q Mr. Hadzovic, do you belong to a particular sect of Islam?
A Sunni Islam.
Q Can you tell the jury, what does it mean to be a Sunni Islam or a member of Sunni Islam?
A It's to adhere to the way of the Prophet in the Koran, the holy book for Muslims.
Q How is that different between say being a Shiite in Islam?
MR. STERN: Objection.
THE COURT: Overruled.

A Shi'a Islam, majority of their rulers or their scholars believed that one of the companions of the Prophet Mohammad, peace be upon him, was divine, whereas Sunni Islam, we believe that only God is divine.
Q What's the problem with that, as far as you are concerned?
A It's -- it breaks the rule of tawhid, tawhid being the worship of one God alone without partners. Where in Shi'a belief that Ali, who is the cousin of the Prophet Mohammad, peace be upon him, was divine, then they are making -- they are setting up partners with God.
Q Is Sunni Islam considered to be a more conservative branch of Islam?
A Yes.
Q Are you familiar with the term Wahabist or Wahabi?
A Yes, I am.
Q What is Wahabist or Wahabi?
A There was a man named Mohammad Abdul Wahab. He lived, I would say, hundreds of years ago. During his time there was much innovation in the Islamic religion. He was bringing back the way of the Prophet, the true path, and all those who followed his way were called Wahabists.
Q Do you consider yourself to be a Wahabist?
A No.
Q Do you know if others consider you to be a Wahabist?

A I've heard it before, yes.
Q What do you mean, you've heard it before?
A That people call me Wahabist.
Q Why is that they call you Wahabist, if you know?
MR. STERN: Objection.
THE COURT: Sustained.
Q Now, Mr. Hadzovic, when you started to become more observant, before you traveled overseas to go fight jihad, did you start to attend a specific mosque?
A Yes, I did.
Q What mosque was that?
A Masjid Tawhid.
Q Could you tell the jury what is a Masjid?
A Masjid is a mosque. It's a religious center for Muslims.
Q Where was Masjid Tawhid located?
A They had two locations. The first one was on 17th Avenue and 84th Street, and the second one was on East 21st Street and Cortelyou Road.
Q The first Masjid Tawhid, what neighborhood was that?
A I believe Bensonhurst.
Q Showing you on the screen what's been marked for identification as Government's Exhibit 902.
Do you recognize this?
A Yes, I do.
Q What do you recognize this to be?

A The first location of the Masjid Tawhid.
Q Does it fairly and accurately reflect the mosque as it did back in 2008?
A Yes, it does.
MR. ARIAIL: May I offer 902, Your Honor?
MR. STERN: No objection.
THE COURT: Received.
(Marked.)
Q When you attended Masjid Tawhid back in '07 and '08, would you attend that Masjid with Mr. Kaziu?
A Once we became more observant, yes.
Q Let's talk for a moment how you first met Mr. Kaziu.
Can you explain that to the jury?
A Yes.
I met Mr. Kaziu in the sixth grade. He was friends with one guy that really didn't like me and he always used to like to try to want to fight me. So eventually I fought him at the end of the year and I -- Betim was also in my class in the seventh grade and in the seventh grade we got to know each other. We talked about video games and anime shows we used to watch together and we became good friends.
Q Prior to the sixth grade, had you seen Mr. Kaziu before?
A Yes.
Q Where had you seen him?
A He lived across the street from me, even prior to the

sixth grade, I believe.
Q Do you know Mr. Kaziu's family?
A Yes, I do.
Q How do you know them?
A Through Betim Kaziu.
Q His family, were they from the United States?
A I don't believe so.
Q Do you know where they were from?
A Macedonia.
Q Where is Macedonia as it relates to Kosovo and Montenegro?
A It's in the Balkans. I'm not sure exactly where it is located specifically.
Q Was Mr. Kaziu born in the United States?
A Yes, he was.
Q Do you know whether Mr. Kaziu speaks any different languages?
A Yes.
Q Which languages?
A Albanian.
Q What is Mr. Kaziu's religion?
A Islam.
Q Did you guys go to high school or middle school together?
A We went to middle school and high school.
Q What was your relationship like during that time?

A In middle school, we were good friends. In high school, we were about year, we were good friends and then it was on and off for the next two years, something like that.
Q Did you finish high school together?
A No.
Q Why not?
A Well, for me, when I was in high school, my brother got into a problem with one of the football players and they ended up fighting and my brother beat him up and then after that like they wanted revenge and they ended up jumping me. So my father got scared and took me out of that school and then I went to Lafayette High School and there I used to cut school and go to the park and smoke cigarettes with friends.
Q Did you attend any classes at Lafayette?
A Gym and maybe lunch.
Q What about Mr. Kaziu, did he finish high school?
A No, he didn't.
Q What did he do?
A I believe he dropped out.
Q Did your parents know you were skipping school during this time?
A No, they didn't.
MR. STERN: Objection.
THE COURT: Sustained.
Strike it.

Lay a foundation.
Q After you dropped out of high school, did you get into any trouble?
A Yes, I did.
Q What happened?
A While I was cutting school with a friend, he -- he asked me if we want to go hang out at an abandoned house and we went there and in there the cops came and they arrested us.
Q What happened after that?
A I was booked and given six months ACD.
Q Did your parents find out?
A Yes, they did.
Q How did they react?
A My father said, listen, son, if you don't want to go to school, then don't go to school but don't go out in the streets and bring trouble for yourself.
Q What did you do after you had that conversation with your father?
A After that, I started working and I was also going to go for my GED.
Q Where did you start working?
A Hakimian Management.
Q Did Mr. Kaziu work at Hakimian Management?
A Yes.
Q What kind of job was that?

A Construction job.
Q How long did you work there?
A About a week.
Q What happened?
MR. STERN: Objection.
THE COURT: Overruled.
A After a week, while we were working there, Betim got into an argument with the elevator operator.
THE COURT: Were you present for this?
THE WITNESS: Yes, I was.
THE COURT: Go ahead.
A He got into an argument with an elevator operator and because I -- I believe Betim was like he was cursing and the elevator operator was like, you talk to your father like this. And Betim said you are not --
MR. STERN: Objection.
THE COURT: Sustained.
Q What happened after the incident in the elevator?
A We got fired.
Q When approximately was that?
A I would say, February of '07.
Q At about this time, or shortly thereafter, did you become more religious?
A Yes, I did.
Q Did your approach to Islam change?

A Yes.
Q And Mr. Kaziu, at about this time, did his approach to Islam change?
A Yes.
MR. STERN: I object to leading.
Q What --
THE COURT: Sustained.
Q In what way --
THE COURT: Try not to lead, please.
Q In what way did your religion change?
A We became more observant.
Q When you say we, who are you talking about?
A Me and Betim.
Q How did you become more observant?
A We started practicing the five pillars of Islam.
Q Could you tell the jury, to your understanding, what the five pillars of Islam are?
A Yes.
The first pillar of Islam is Tawhid. It's to worship God alone without partners.
The second pillar is Salat, which means prayer. This consists of five prayers.
The third one is Zakat. This is for charity and the one who has money should give to charity.
The fourth one is Sawm, which is to fast during the

month of Ramadan.

And the fifth one is Hajj, to make the pilgrimage to mecca.

Q Did you start attending the specific mosque?

A Yes.

Q Is that the Masjid Tawhid you talked about earlier?

A Yes.

Q How is that you came upon Masjid Tawhid?

A I knew they were from the same region where my parents were from back in Montenegro and I went over there to visit and see how it was and in there I met brothers like Saudin and Brother Mohammad and Brother Selman and I sat down and they offered me food and eventually I started going there more often.

Q When you first started going there, was Mr. Kaziu attending with you?

A At the very beginning, I don't believe so.

Q At a certain point, did he start attending mosque with you?

A Yes.

Q How did that come about?

A We became more observant. We were good friends and we went together.

Q When you started attending Masjid Tawhid, can you tell the jury any other steps that you may have taken to become more observant in Islam?

A Yes.

After becoming -- following five pillars of Islam, we started following the way of the Prophet Mohammad, peace be upon him, by growing our beards and shortening our pants and abstaining from any type of sexual activity with woman prior to marriage and, of course, not eating pork, not drinking alcohol and not going out clubbing.

Q What's the significance of growing a beard?

A The Prophet, the Prophet Mohammad, peace be upon him, said that the pagans used to grow their moustaches and cut off their beards and Muslim should trim their moustaches and grow their beards.

Q What's the significance of shortening the pants?

A From my understanding, that's the -- the arrogant people of the time of the Prophet Mohammad, peace be upon him, they used to drag their clothing if they were wearing robes as to show the people that they were high. So we shortened our pants to show that we are modest.

Q Now, when you began attending Masjid Tawhid, did you meet any other young men who were interested in Islam?

A Yes.

Q Who is it that you met?

A I met Adem and Sead Husseinovic.

Q Can you tell the jury how you met Adem Husseinovic?

A Yes.

We used to go to the same Masjid together.

Q Did Mr. Kaziu Adem Husseinovic?

A Yes.

Q Can you describe the relationship among yourself, Adem and Mr. Kaziu?

A Yes.

We became -- we seen each other at the mosque. We'd talk about religion, talk about Prophet Mohammad, peace be upon him, and his way and the companions and the brotherhood between them and eventually we became really good friends.

Q Did the three of you discuss religion?

A Yes.

Q How often?

A Almost every time we went to the Masjid.

Q Now, Mr. Hadzovic, I know there are a lot of terms that you are going to end up using as I ask you questions. I am going to ask you to go through some of them at this point, if you could explain them as best you could to the jury.

What's your understanding of these:

Are you familiar with the term hijra?

A Yes.

Q What is hijra, in your understanding?

A Hijra is migration from one place to another without returning to that place in which you migrated from.

Q Is hijra an Islamic term?
A Yes.
Q What about the word fitna, are you familiar with that term?
A Yes.
Q What does fitna mean?
A Fitna is trial and tribulations.
Q And dunya, are you aware of -- do you know what that means?
A Yes.
Q What is dunya?
A It means like this life.
Q When you say this life, what do you mean specifically?
A In Islam we believe that you have this lie and then when you die the hereafter. So dunya means this life, the life in which we are living now.
Q What about the word jannah, are you familiar with that word?
A Yes.
Q What is jannah in Islam?
A Jannah is paradise.
Q How is that you get to paradise, to your knowledge?
A By worshipping God alone.
Q How else can you get there?
A You can get there by being a martyr.

Q What do you understand the word martyr to mean?
A One who dies in the jihad fighting.
Q What about mujahideen, do you know what mujahideen means?
A Yes.
Q What is that?
A Like holy fighter, one who fights for Islam.

(Continued on next page.)

BY MR. ARIAIL:

Q What about shaheed?

A I think shaheed literally meaning witness.

Q Does it have a different meaning than witness?

A Probably, but there's different categories. Martyr can be shaheed.

Q What about the Hur Al-Ayn in Islam, what is that?

A They are of the wives of Paradise.

Q What about a green bird as it relates to Islam?

A My understanding of a green bird is that the one who dies in jihad fighting and dies a martyr. Then he is put into the soul of a green bird in which he flies across the garden, the rivers of Paradise.

Q To your knowledge, to your understanding, what happens if you die in Islam and you don't die a martyr?

A My understanding is that you go to the trials and tribulations of the grave and also the day of judgment.

Q Can you explain to the jury what you mean by the trials and tribulations of the grave?

A When one dies he is put into a grave and in the grave he is asked questions by the angels and if that person answers correctly, then God opens up a window to Paradise and he makes the grave spacious until the day of judgment.

As for the ones who did wrong through his life, who was a criminal, and then Allah, God, he opens up a window to

the hellfire and makes the suffering until the day of judgment.
Q Does the person who dies -- to your knowledge, does the person who dies who is not a martyr go straight to Jannah?
A Who is not a martyr?
Q Yes.
A To my knowledge, no, he doesn't go straight to Jannah.
Q What does he have to wait for?
A He has to wait for the day of judgment.
Q How long can that take?
A Only God knows.
Q What about a person who dies a martyr, what happens to him?
A He goes to Paradise right away.
Q How does he get there?
A How does he get there? I mean, I assume that the angels bring him there.
Q Are you familiar with the term jihad?
A Yes, I am.
Q What is your understanding of the word jihad?
A A struggle.
Q What kind of struggle?
A Both an inner struggle and a physical struggle.
Q The struggle or the jihad that you and Mr. Kaziu sought to do, was that an inner struggle or a physical struggle?

A That was a physical struggle.
Q Are you familiar with the term jihad of today?
A Jihad of today?
Q Yes.
A Yes, I am.
Q What is your understanding of what jihad of today is?
A Jihad of today is talking about what's happening in places like Afghanistan, Pakistan and Iraq and Chechnya, Somalia.
Q The word kuffar, what is kuffar?
A Kuffar means disbelievers.
Q And nasheed, what does that mean?
A Nasheed is like Islamic song.
Q What is significant or specific about it?
A Usually when you listen to Islamic songs you will find that there's no instruments used.
Q What about the term Islamic Caliphate, have you heard that term?
A Islamic Caliphate?
Q Yes?
A A region or a country ruled by shariah.
Q What is shariah?
A Shariah is God's law.
Q Are there specific rules under God's law, that you're aware of?

A Yes.

Q Could you tell the jury a little about some of those specific rules.

MR. STERN: Objection.

THE COURT: Overruled.

A Yes. As for the one who kills for no purpose, then he is to be executed. As for the man or the woman who breaks the sanctity of marriage -- let's say a man sleeps with a woman while he is married, then he is to be stoned and the same for the woman. As for the one who drinks alcohol then he is to be flogged. As for the one who -- that's all I know now.

Q Now, Mr. Hadzovic, when you first started attending Masjid Tawhid, would you characterize your religious beliefs as being radical?

A No.

Q Over time did your beliefs become more radical?

A Yes.

Q And over time did Mr. Kaziu's become more radical?

MR. STERN: Objection.

THE COURT: Sustained.

Q How did your views become more radical?

A Well, after watching videos of the situation of what was happening in Afghanistan and Iraq, with the Muslims being humiliated in places like Abu Ghraib Prison Guantanamo Bay, my view of America and what it was doing completely changed. My

view of jihad being obligatory upon every Muslim changed.
Q And when was it that your views began to change?
A I would say '08, the year of '08.
Q And to your knowledge, did Mr. Kaziu's views begin to change?
A Yes.
Q How did they begin to change?
A Just as mine. We were upset at what was happening in places like Abu Ghraib Prison and Guantanamo Bay, how they were humiliating and torturing the Muslims there.
Q And you mentioned videos. Were these, videos to your knowledge, put out by specific groups?
A Some of them, yes.
Q What groups were involved in the publishing of these videos that you began to watch?
A There was this one called As Sahab. They usually produced videos that are -- that they videotape from Al Qaeda members like Osama Bin Laden or Abu Yayhaal-Libi, these leaders of Al Qaeda and Taliban.
Q Were there other groups that put out videos?
A Yes, there was a group of the Chechnya mujahideen in Chechnya. There was Al-Shabaab in Somalia.
Q And did you and Mr. Kaziu watch those videos together at times?
A Yes, we did.

Q Where is it that you would typically watch those videos in 2008?
A Usually either at my house or his house.
Q And how often did you watch those videos in 2008?
A We used to watch it a lot, like almost anytime he was over my house or I was over his house.
Q You mentioned some people who were in the videos that you watched. You said Osama Bin Laden. Did you have an understanding of who he was in 2008?
A Yes.
Q Who did you understand him to be?
A He was the leader of Al Qaeda.
Q And the individual you mentioned Abu Yayhaal-Libi, who is that?
A To my understanding he was also one of the key figures of Al Qaeda.
Q When you watched these videos did you have discussions with Mr. Kaziu?
A Yes.
Q And can you tell the jury a little bit about some of the discussions that you would have in 2008 with Mr. Kaziu while you watched these videos?
MR. STEINGLASS: Objection.
THE COURT: You're asking him to relate the discussions he had with Mr. Kaziu?

MR. ARIAIL: Yes, your Honor.

THE COURT: Overruled.

A If we were to watch videos of Osama Bin Laden, what he was talking about, about how America was lying and killing the Muslims in places like Iraq and Afghanistan and that the people should stand up and fight against them and felt that this was right, that what they were doing, Al Qaeda and Taliban was right fighting against the oppressors.

MR. ARIAIL: May I approach, your Honor?

THE COURT: Yes. For what purpose?

MR. ARIAIL: Just to show this.

THE COURT: Put it on the screen.

Q Mr. Hadzovic, do you recognize this?

A Yes, I do.

Q What is this?

A These are videos and lectures of nasheed and lectures me and Betim watched.

Q When is it that you watched these lectures and nasheeds and videos on this disk?

A Specifically this disk?

Q Yes.

A I watched it today.

Q I'm sorry. Prior to today, when is it that you watched these videos with Mr. Kaziu?

A I watched it in '08, '09.

Q Mr. Hadzovic, when you guys started to watch these videos, what were the first types of videos that you started to watch?
A Chechnyan nasheeds with Chechnyan mujahideen fighting.
Q Were there any particular nasheeds or Chechnyan rebels that you were interested in?
A Yes.
Q Can you tell the jury a little bit about that.
A One specific is Amir Khataab. He was the leader of the Chechnyan rebels and then he was killed I believe due to poison and then we looked up to him because we believed that he was fighting the oppressors who were the Russians and the Russians that were oppressing the Chechnyans.
Q Were there other Chechnyan videos that you can recall watching at that time?
A In '08 '09?
Q Yes.
A We also watched Chechnyan training, type of training they do in Chechnya.
Q Did any of the videos that you watched related to martyrdom?
A Specifically on this?
Q Not on this disk, just generally.
A Yes.
Q Can you tell the jury a little bit about some of the

videos or any video that you watched that related to a Chechnyan martyr.

A Yes. There was this one video of a Chechnyan mujahideen dying and his last words being that I bear witness that there is no God but God.

Q And when you saw that video, how did you react?

A The way I reacted, I wanted to die just like this, that I saw this as being a beautiful death.

Q And did Mr. Kaziu watch that specific video that you are talking about with you?

A Yes.

Q And did he react to that video?

A Yes.

Q How did he react?

A In the same way as I reacted, that we liked the way in which the mujaheed died.

Q Why is it that you liked the way the mujaheed he died?

A For one, being a martyr in Islam, for the cause of Islam and, two, him saying the last words saying that he bears witness that there is no God but God.

Q Why was that significant to you?

A Because the one who dies like that is almost guaranteed Paradise.

MR. ARIAIL: Your Honor, if I may show the witness one of the videos?

THE COURT: Sure.

(Pause.)

THE COURT: Are you using a laptop?

MR. ARIAIL: I am.

THE COURT: Are you showing the witness a video?

MR. ARIAIL: I'm going to show him the first screen shot and ask him if he recognizes it.

THE COURT: All right. Hang on.

(Pause.)

Q Mr. Hadzovic, I'm going to direct your attention to the folder on the screen marked Government Exhibit 403 B. Showing you on screen 403 B.

Mr. Hadzovic, do you recognize the video that is about to play here?

A Yes, I do.

Q And can you tell the jury a little bit about this video.

A Yes. This video is depicting Amir Khataab, who was the leader of the Chechnyan rebels singing a song about how he was the sword of Islam, the defender of Islam.

Q You said sword of Islam, defender of Islam. Is that what the sword of Islam means to you?

A Yes.

Q Can you just describe what goes on in this video a little bit?

A It's a nasheed, Islamic song, with pictures and some video taking of Amir Khataab running in the bushes, basically portraying the jihad in Chechnya.

Q What did you think of Amir Khataab at this time?

A I thought he was a hero.

MR. ARIAIL: Your Honor, may I offer 403 B?

THE COURT: Any objection?

MR. STEINGLASS: No.

THE COURT: Received.

MR. ARIAIL: Permission to publish.

THE COURT: Are you going to play it.

MR. ARIAIL: Yes, your Honor.

THE COURT: All right.

Is there audio to this.

MR. ARIAIL: There is, your Honor.

MR. STERN: Can we come up.

THE COURT: Yes.

(Continued next page.)

(Sidebar.)

THE COURT: Who is doing the cross?

MR. STERN: I am.

THE COURT: Yes.

MR. STERN: I suspect -- I know the fate of this objection. I have 403 objections to these. I don't want to say it but every one of them are all related to this kind of video. I wanted the record to reflect that I have 403 objections to them.

THE COURT: It's hard for me to assess that now at sidebar on an informed basis. You're saying the probative value is outweighed by unfair prejudice?

MR. STERN: Yes.

THE COURT: What is the source of the unfair prejudice?

MR. STERN: They are more inflammatory. They don't add anything. He talks about what they did, what they think and what they saw. I don't think showing it does anything except to inflame the jury. I don't think it adds any information.

THE COURT: What is on them? I don't know what is on them.

MR. STERN: Training videos, and this one happens to be about this guy Khataab who was a Chechnyan warrior, him doing heroic things and then dying.

THE COURT: What are the heroic things he's doing?

MR. STERN: Fighting.

MR. DuCHARME: Yes. Here's why they are probative, to the extent that this is to explain sort of how they got interested in the violent aspect of these things.

The videos are frankly -- some of them are very sophisticated propaganda in which they had conversations.

We also expect to elicit testimony from our expert that with respect to some of these videos we also expect to elicit from our expert that there is sort of a trove of jihad materials.

There are classics of jihad propaganda and material that in order to assimilate into a jihad culture, into a jihad group, you have to have a foundation of understanding.

In other words, you need to be able to refer to this common base of knowledge and that the way that people prepare themselves to assimilate into that group is by familiarizing themselves and memorizing portions of these particular videos that we intend to offer.

THE COURT: Does the fighting include blood and guts?

MR. STERN: None of the things they are going to show, I don't think so.

MR. ARIAIL: There are lectures from Anwar Al-Awlaki, who the witness is going to say, the specific lectures they listened to inspired them to go fight, that proved they needed to go fight, that jihad was an obligation to fight.

These other videos of Osama Bin Laden, they educated them on their duty as a Muslim to go fight in these countries. The Chechnyan ones the same way. Also in terms of informing them of what they were going to do when they got there.

They are training videos. They watched Al Qaeda members firing guns, RPGs and learned the things they were going to do when they got there.

With respect to Al-Shabaab, your Honor, there is one specific video where Abu Mansour the leader of Al-Sjabaab, specifically says in a video that if you come to Somalia we will give you land and you young men come and fight with our people basically to implement a Caliphate in Somalia.

That is the motive that, the essence of what this is all about, the videos, how they radicalized themselves.

THE COURT: What is the running time?

MR. DuCHARME: We are sensitive to the issue, obviously. On the defendant's laptop among the videos and audio lectures that the cooperating witness watched and listened to with the defendant there are hours and hours and hours and hours of these things. We tried to cut them down -- we did cut them down to very, very small pieces.

The pieces, for example, that are going in through our expert, I expect through this witness, tend to run from about 90 seconds to two minutes. Some are as short as ten seconds. We're not looking to overwhelm --

THE COURT: How many are there total?

MR. DuCHARME: With the expert, I think we've got about 20 little clips that in total are less than 30 minutes. I expect that's about the same --

MR. ARIAIL: I have one video that is a little bit longer, that is about a six or seven minute video for speech. But very much it's all clips. We have narrowed it down to 20 clips and I showed them to defense counsel ahead of time.

THE COURT: Is the speech in English?

MR. DuCHARME: Some of them are in Arabic with English subtitles in the original format.

MR. STEINGLASS: I ask do they include USS Cole, is that included?

MR. ARIAIL: Yes.

MR. STEINGLASS: Can I just ask off the record to --

THE COURT: You can go away from me. We don't stuff off record.

MR. STEINGLASS: Are you putting everything you have about the USS Cole?

MR. ARIAIL: My witness is going to know that that was the ship, an American ship --

MR. STEINGLASS: The pictures of after the attack on the Cole?

MR. ARIAIL: There is a speech that we intend to offer that he watched with Mr. Kaziu in Egypt and he was -- it was a very significant speech for that purpose.

MR. STEINGLASS: There may be pictures of dead people being shown. I ask the question. Maybe yes? I'm not clear, but the answer may be yes.

THE COURT: Anything further?

MR. DRATEL: Yes. One of our concerns is that the tail isn't wagging the dog in terms of what would ordinarily be First Amendment activity that is not criminal, such as watching videos, so that doesn't overwhelm the jury. That's what we are concerned about, obviously.

We are talking about liberty and we want to be conscious of it because at this stage we're swamped by that and the sight of what they saw.

THE COURT: The First Amendment objection is overruled. The 403 objection is overruled, although I haven't seen this yet.

Had I known this was coming, I might have observed this out of the presence of the jury. I'm going to bear it in mind. I will get a feel for what this is. I may revisit it sua sponte.

MR. DRATEL: The one that might be worth looking at on the break is the Cole.

MR. ARIAIL: Your Honor, frankly --

THE COURT: You have a video of the ship with a hole in the side of it?

MR. ARIAIL: I do. It's one of the ones they watched together. There was a speech about Osama Bin Laden about going overseas --

THE COURT: Is there a picture of the ship with the hole in it?

MR. ARIAIL: Yes. We also have a speech from Osama Bin Laden celebrating 9/11, and they watched this.

You know, frankly, I have been preparing this witness for two months and I'm just now finding out that there are real objections to these things. I don't understand them.

MR. STEINGLASS: Not so.

THE COURT: It happens.

MR. DRATEL: The Cole is a perfect example of what they are trying to do. The photos of the Cole, the reaction of the jury is irrelevant. It's the reaction of the defendant and the witness that is important.

So they don't have to see it, all they have to do is hear the witness' reaction. When they see it they have their own reaction.

THE COURT: Objection overruled subject to my revisiting it sua sponte.

(Open court.)

THE COURT: Did Ilene fix our problem?

MR. ARIAIL: I think she did.

THE COURT: She does that.

(Pause. )

Q Mr. Hadzovic, the video that we're about to watch here, what are we looking at again?

A The video -- Amir Khataab was the leader of the Chechnyan rebels and in this video is a nasheed, a farmer song with pictures and video like showing the jihad in Chechnya.

Q When is it that you and Mr. Kaziu watched the video together?

A I believe in '08.

(Video plays.)

Q Mr. Hadzovic, do you have an understanding as to what the weapon that Amir Khataab was carrying in this video?

A Yes.

Q What is it?

A An RPG.

Q What is an RPG?

A Like it shoots missiles, rockets.

THE COURT: Can you try to keep your voice up, please. Your voice trails off and we can't hear you.

Keep your voice up.

(Video stops.)

A RPG.

Q Mr. Hadzovic, are you familiar with an individual known as Abu Abdullah?
A Yes, I am.
Q Who is Abu Abdullah?
A He's a British Muslim that used to speak out against the Americans and U.K. government.
Q In 2008 did you watch a speech of Abu Abdullah?
A Yes, we did.
Q When you say "we," who are you referring to?
A Me and Betim.
Q What was that speech about?
A It was about the desecrating of the Koran when the U.S. troop flushed the Koran down the toilet.
Q Can you describe the video just a little bit to the jury.
A Yes. The video was him speaking out against U.S. and U.K. governments, about what was happening in Afghanistan, specifically related to the U.S. troop who flushed the Koran down the toilet. Also, he's speaking about how we should hate them, how we should hate them for what they do. That's almost about it.
Q And when you watched this speech, how did you react?
A I liked the speech.
Q What about the speech did you like?
A That he was speaking out against what was happening in places like Afghanistan and Iraq.

Q Do you recall specifically what he was saying?
A Specifically as to what he was saying?
Q Yes, or generally.
A In the background they had them chanting "Bomb, bomb USA" and then he came up and said that what they did was wrong and that the Muslims had enough of their oppression and that one day the shoe will be on the other foot, meaning that what's happening today in the Muslim world will eventually happen to America and when that day comes we will give you your rights. This meaning that if Islamic rule, shariah, then you have to give the Christians and Jews their rights.
Q In 2008 how did you feel about the implementation of Islamic rule across the world?
A I felt that it was needed.
Q And under Islamic rule what are the laws that govern?
A Islamic rule, such as I stated before, with the one who kills with no purpose, then he is to be executed.

The one man or woman who breaks the sanctity of marriage are to be stoned. The one who drinks is to be flogged.

As far as the Christians and Jews, then they have three choices. This meaning that the battle, the taking over land; that they have the choice to convert to Islam, pay jizyah, which is tax or be killed, and if to pay jizyah, then the Christian or Jew has rights over the Muslim, meaning that

he pays the tax and he receives protection, food and shelter.
Q Is this something in 2008 that you desired to happen?
A Yes.
Q Did Mr. Kaziu tell you whether or not he desired this to happen?
A Yes, we both desired this to happen.
MR. ARIAIL: Your Honor, if I may show another video to the witness?
THE COURT: To the witness?
MR. ARIAIL: To the witness, your Honor.
THE COURT: Go right ahead..
Q Mr. Hadzovic, do you recognize what has been marked as Government Exhibit 933?
A Yes, I do.
Q What is this?
A This is the speech that Abu Abdullah gave.
Q When is it that you watched this speech with Mr. Kaziu?
A I believe in '08.
MR. ARIAIL: Your Honor, we offer this exhibit and request permission to publish it.
THE COURT: Same objection. Same ruling. Received.
MR. STERN: The number on the exhibit?
THE COURT: 933, was it?
MR. ARIAIL: That's correct, your Honor.

MR. STERN: Thank you.

THE COURT: You're welcome.

(Video plays-video stops.)

THE COURT: We lost the sound. Hold on a minute. We'll get Ilene.

(Pause.)

THE COURT: Let's take a break so I can find Ilene to fix this problem. All rise. Don't discuss the case, ladies and gentlemen.

(Jury leaves.)

THE COURT: Can someone take the witness out. We'll be in recess.

(Recess.)

(Open court.)

THE COURT: Let's get the witness and the defendant, please.

Let's have the jury, please.

(Jury present.)

THE COURT: Be seated, please. We're ready to resume, Mr. Ariail?

MR. ARIAIL: Yes, your Honor. You're going to pick up by playing this video?

MR. ARIAIL: Yes, your Honor.

Q Mr. Hadzovic, Government Exhibit 933, again, could you just explain what it is that we're going to be watching.

A We're going to be watching a speech by Abu Abdullah specifically talking about what happened with the desecration of the Koran when the U.S. troop flush it down the toilet and speaking about the oppression of the Muslims in today's age and how basically it will reverse on them, meaning that Islam will rule and the U.S. will fall.

(Video plays.)

Q Mr. Hadzovic, who is the individual in the middle of the video?

A That is Abu Abdullah.

Q What is it the crowd is saying right now?

A I believe, "Bomb, bomb USA."

Q Did you have an understanding as to what the reference there was to mujaheed?

A Yes, he's talking that only mujaheed, those fighting in Afghanistan and Iraq and places where jihad is taking place, that they are doing what men should be doing, meaning standing up against oppressors.

Q In those places that you referred to, Afghanistan and Iraq, who are the mujaheed fighting against?

A They're fighting against U.S. troops.

(Video stops.)

(Continued next page)

BY MR. ARIAIL:

Q Mr. Hadzovic, do you have an understanding as to what Abu Abdullah was talking about in that part of the speech?

A Yes, I do.

Q What was your understanding?

A He's talking about the coming of Jesus, peace be upon him. He's talking about when Jesus, peace be upon him, arrives at the end of the days and all those who don't embrace the true re religion won't be able to pay this tax where if they were to pay that tax prior to that they would receive protection and shelter and food when he does arrive, either you embrace Islam or you die.

(Video Plays.)

Video stops.)

Q Who Sheikh Abu Hamza, to your knowledge?

A To my knowledge he used -- that's like Abu Abdullah's mentor.

(Video plays.)

(Video stops.)

THE COURT: How much more of this is there?

MR. ARIAIL: That's about it, your Honor.

THE COURT: Obviously, I've determined that this is admissible evidence and that's why you're hearing it. But from time to time I'm going to remind you of the ball on which we're all going to keep our eye, right, which is the charges in this case. You're seeing these videos and one of the issues in the case will be whether the government can prove that certain actions were taken by the defendant and then another issue will be what the mental state was of the defendant when he undertook the actions the government will claim he undertook.

To the extent you find this evidence and other evidence in the case useful in finding the facts, so be it, you can consider it. But it's important I think for me to remind you from time to time that there's no substitute here for the government proving beyond a reasonable doubt the elements, the ingredients, of the crimes charged. Right?

So if the defendant associated himself with or subscribed to extremist political or religious views, that's not the element of the crime. Those facts don't constitute any of the crimes charged and even if the government established that, it wouldn't be a substitute for proof beyond a reasonable doubt of the crimes charged.

Okay. So you can consider this evidence, along with all the other evidence in the case. But make sure we all stay rooted in what the case is about, which is the four particular crimes charged and the elements of them and whether the government can prove them.

Okay. Understood?

Any objection by anybody to the limiting

instruction?
MR. STERN: No.
MR. ARIAIL: No, your Honor.
THE COURT: All right. Go ahead.
BY MR. ARIAIL:
Q Mr. Hadzovic, do you see on the screen, 701 O?
A Yes, I do.
Q Do you recognize this?
A Yes, I do.
Q Who do you recognize this to be?
A A picture of basically the Islamic Caliphate, sharia law being implemented across the world in the future.
Q Where have you seen this picture before?
A I believe on Betim's computer.
Q When did you see it on Betim's computer?
A I believe in Cairo, when we were in Cairo in '09.
MR. ARIAIL: At this time I offer 701 O.
THE COURT: Any objection?
MR. STERN: No, your Honor.
THE COURT: Received.
(So marked.)
Q Mr. Hadzovic, can you explain to the jury what your understanding is of what this document is showing?
A Yes. My understanding of it is that eventually Islam will dominate the world and this is showing Africa, Middle

East and parts of the Asia already being conquered and within the next hundred years the whole world will be under the Islamic Caliphate.

Q Where does there picture show that the world will be in the Islam Caliphate?

A Down here.

Q This picture and what Abu Abdullah were talking about in that video, are those related?

A This specific picture?

Q Just generally this idea that is demonstrated in this and what Abu Abdullah was saying?

A Yes, it is.

Q How are they related?

A Because of course Abu Abdullah want the implementation sharia, that's Islamic rule, and until -- when the day of the judgment or before the day of the judgment, end of days, that the whole world will be ruled by Islam.

Q In 2008 did you believe that the whole world should be ruled by Islam?

A Yes, I did.

Q Did you have conversations with Mr. Kaziu about that issue?

A Yes, I did.

Q Did he tell you his opinion upon that issue?

A Yes. It was the same as mines, that we agreed that sharia, Islamic rule, should be implemented across the world.

Q Now, Mr. Hadzovic, did you and Mr. Kaziu in 2008 and 2009 also listen to lectures about jihad?

A Yes, we did.

Q Whose lectures did you listen to?

A Specifically lectures by Anwar Al-Awlaki.

Q Who is Anwar Al-Awlaki?

A He was an American-born imam.

Q And did he put out more than one lecture or just one?

A No. He put out more than one.

Q Can you tell the jury a little bit about the lectures an Anwar Al-Awlaki published?

A Yes. We used to listen to lectures by Anwar Al-Awlaki, lectures about the Prophet Muhammad, lectures about the prophet, prior to the prophet, like Abraham and Adam and Noah and Jesus, peace be upon them all. Lectures about the companions of the prophet and the brotherhood between them. Also the rule, when the Prophet Muhammad, piece be upon them, died, when his companions were established as rulers and how they ruled the country and we also listened to lectures on jihad, lectures about the virtues of dying in jihad and also as to why you should go fight jihad, like if you have any doubts, like advice to the ones who stay behind.

Q Mr. Hadzovic, if I get what you are saying, are you dividing up two categories of lectures here?

A Yes, I am.
Q What's the first category of lectures that Anwar Al-Awlaki published?
A Lectures about the prophets and the prophets, peace be upon them all, and about the companions.
Q Did you consider those lectures or do you consider those lectures to be radical or to advocate jihad?
A No, I don't.
Q And the other ones, that was a separate group of lectures, what were those about, jihad mostly?
A Mostly jihad, yes.
Q What's specific lectures did you listen to and Mr. Kaziu about jihad?
A There was this one lecture called the virtues of the martyrs and basically when a martyr dies and what he should expect. Also we used to listen about the advice to those who stay behind, reasons to why one would stay behind instead of going out and fighting jihad, be it family or friend or wealth or to live longer in this life, things of that sort.
Q Did those lectures have an impact on you?
A Yes.
Q What was the impact that those lectures had on you?
A Ultimately, the impact that it had on us was us trying to and actually fight jihad.
Q How is it that they helped you go fight jihad?

A Well, I mean these are things that every single man when going out to the world, things about his family, his friends, his life on this world and what it means to him. These lectures basically made it simpler for us to leave, making it easier for us to leave because we knew that by leaving we're doing a greater cause for the religion and for ourselves.
Q Where is it that it pushed you to leave to go to?
A We left to Cairo. But from Cairo we wanted to go to places like Afghanistan, Pakistan, Somalia, Iraq.
Q Why did you want to go to those places?
A To fight and die in jihad.
MR. ARIAIL: Your Honor, if I may play the video? It's actually just an audio.
THE COURT: Is it in evidence?
MR. ARIAIL: No it is not. Just for the witness at this point to show a picture of the clip, your Honor.
THE COURT: Got it.
On the laptop?
MR. ARIAIL: It is on the laptop.
THE COURT: Okay.
Q Mr. Hadzovic, I direct your attention to 922, the file folder there, do you recognize that file folder there?
A Yes, I do.
Q What's in that folder?
A This lecture is by Anwar Al-Awlaki and this specific one

is the advice to the ones who stay behind.
Q Could you tell the jury just a little bit about what Anwar Al-Awlaki said in this lecture?
A Yes.
In this lecture he's speaking about basically why one wouldn't go out and fight in jihad and the reasons being if you're thinking about family or friends or this life that he gives each explanation as to why you shouldn't worry about this.
Q When you say why you shouldn't worry about this, what is it that you shouldn't worry about when you go fight jihad?
A Your family and friends and living a long life.
Q Why not?
A Because jihad is the greater good.
Q Why is it the greater good?
A Because if one is martyred then you live eternally. This life is short. No one knows when we're going to die. We can die this second or tomorrow, after tomorrow or in a year. And the hereafter is eternal.
Q If you die a martyr for Islam, where did you go in the hereafter?
A If you were sincere in dying as a martyr then you go to paradise.
MR. ARIAIL: I offer Government's Exhibit --
Q Did you listen to this with Mr. Kaziu?

A Yes, I did.
Q And did you listen to this lecture with him in 2008 before you left for Egypt to go fight jihad?
A I believe so, yes.
Q How did this impact you and Mr. Kaziu in going to fight jihad?
MR. STERN: Objection how it impacted Mr. Kaziu.
THE COURT: Sustained.
Q Do you know whether or not this had an impact on Mr. Kaziu in terms of going to fight jihad?
A I believe so.
Q Why do you believe so?
A Because we ultimately did go together and we did both decide that we would go and fight in jihad.
MR. STERN: Objection.
THE COURT: Sustained. Strike it.
Lay a foundation.
Q Did you and Mr. Kaziu listen to this specific lecture?
A Yes, we did.
Q Did Mr. Kaziu react in any way?
A Yes, he did.
Q Did he tell you anything about this lecture?
A Just that what he was saying was true.
Q What who was saying?
A What Anwar Al-Awlaki was saying and I believed it to be

the same.

MR. ARIAIL: I offer 922.

THE COURT: I'll receive it subject to the same objection that was expressed earlier. I take it you renew that objection.

MR. STERN: I do. Yes. Thank you.

THE COURT: Received.

(So marked.)

(Video plays.)

(Video stops.)

Q Who is speaking here, Mr. Hadzovic?

A Anwar Al-Awlaki.

Q What is he saying, what language is that?

A The beginning is in Arabic and he's seeking refuge in Allah from the cursed devil and he's sending peace and blessings upon the Prophet Muhammad, peace be upon him.

(Video plays.)

(Video stops.)

Q Mr. Hadzovic, who are the ones that stay behind?

A People that don't go and fight in jihad.

(Video plays.)

(Video stops.)

Q Mr. Hadzovic, I direct your attention -- your Honor this is just for the witness -- to the folder marked 923. Do you recognize that?

A Yes, I do.
Q What is that?
A This is another Anwar Al-Awlaki video.
Q When you say video, is it a video or audio?
A I'm sorry. A lecture, an audio.
Q What's this lecture about?
A This specific lecture is about the virtues of the martyrs.
Q Did you listen to this audio in 2008 and 2009?
A Yes.
Q And did you listen to it with Mr. Kaziu?
A Yes.
Q Where did you listen to these audiotapes?
A I'm not sure about that.
Q Did you listen to it in Egypt?
A I believe we listened to this specific one more than one time.
Q Was one of the times that you listened to this in Egypt?
A I believe so, yes.
Q And how about in the United States?
A Yes.
MR. ARIAIL: I would offer Government's Exhibit 923.
MR. STERN: Same objection.
THE COURT: Overruled. Received.
(So marked.)

MR. ARIAIL: I will just publish it briefly, your Honor.

(Video plays.)

(Video stops.)

Q What is that term that's being used there?

A Shuhaddah?

Q Yes.

A It's shaheed.

Q What's a shaheed?

A A witness. A martyr can also fall into that category.

(Video plays.)

(Video stops.)

Q Mr. Hadzovic, can you explain that, what Anwar Al-Awlaki is saying there, to the jury?

A Yes. He's talking about the beauty about dying in jihad, that the one who dies in jihad sincerely fighting in jihad that he will enter paradise and he would do it over and over again, but to get that same feeling.

Q Now, Mr. Hadzovic, in addition to watching the two videos or three videos we watched earlier today and listening to these lectures did you and Mr. Kaziu have political discussions about issues that arose in Islam?

A Such as?

Q Well, did you have any political discussions about Islam?

THE COURT: Excuse me.

You can't ask questions.

THE WITNESS: I'm sorry.

THE COURT: Go ahead.

Q In addition to, what, if anything -- these videos and listening to these lectures -- did you and Mr. Kaziu have political discussions about Islam?

A Yes.

Q Were there particular subjects that you and Mr. Kaziu discussed in 2008 as they related to Islam?

A Yes.

Q Which ones, for example?

A We spoke about the situation in Iraq, the situation in Afghanistan, the situation in Israel, what the Israelis were doing to the Palestinians and the oppression there and that it was wrong.

Q Can you tell the jury a little bit about the conversations that you and Mr. Kaziu had related to the situation in Palestine?

A Yes.

We spoke about how the Zionist Jews were basically killing the Palestinians innocents for their own benefits and that these Zionist Jews were dirty people, that they were pigs.

Q Did you talk with Mr. Kaziu about what was going on in Somalia?

A Yes.
Q Can you tell the jury a little bit about the conversations you had in 2008 about Somalia?
A Yes.
We spoke about what was happening in Somalia, how the government of Somalia was oppressing the people of Somalia and that we thought that by going there and fighting jihad was the right thing to do.
Q Now, with respect to Somalia, Mr. Kaziu -- Mr. Hadzovic, did you watch specific videos related to Somalia?
A Yes, we did.
Q Did you have an understanding as to who put those videos out or who was in those videos?
A As to who exactly put them out, I'm not sure. But who was in those videos, one of them was with Abu Mansour. He is the leader of the Al-Shabaab. Those who were fighting against the Somalian government troops.
Q Can you tell the jury a little bit about that video?
A Yes. In this video, he speaks about the situation in Somalia and how the Somalian government is oppressing the Somalian people and that they are there to fight against them because of their oppression and that those who come in aid the Somalians in jihad they will have a fair share in crops and wives.
Q Specifically, what was your understanding as to what was

Al-Shabaab was doing in Somalia at that time in 2008?
A As to specifically I believe they were fighting the Somalian government.
Q How were they fighting the Somalian government?
A With guns and grenades and things of that sort.
Q What was the goal, if you know, of Al-Shabaab in Somalia?
A The primary goal was to overthrow the Somalian government and implement sharia law, Islamic rule in Somalia.
MR. ARIAIL: If I could publish another video to the witness, your Honor.
THE COURT: Yes. Go ahead.
Q Mr. Hadzovic, directing your attention to folder 920, do you recognize the video on the screen?
A Yes, I do.
Q What is this video?
A This is the video of Abu Mansour, the leader of Al-Shabaab, speaking about the situation in Somalia.
Q Did you watch this video with Mr. Kaziu in 2008?
A I believe both in 2008 and 2009.
Q So before you left and after you got to Cairo?
A Yes.
MR. ARIAIL: At this point I would offer 920, your Honor.
MR. STERN: Same objection.
THE COURT: Overruled. Received.

(So marked.)

MR. ARIAIL: Request permission to publish.

THE COURT: Yes. This is a video?

MR. ARIAIL: It is, your Honor.

(Video plays.)

(Video stops.)

Q Who are we looking at in the picture here?

A This is Abu Mansour, the leader of Al-Shabaab.

(Video plays.)

(Video stops.)

Q Mr. Hadzovic, is this a video clip from a larger movie?

A Yes, I believe so.

Q Is it a documentary or what is this?

A It's a documentary.

(Video plays.)

(Video stops.)

Q Could you read aloud what's on screen right now?

A Yes. We will allow him to marry our daughters and share our crops.

Q And what does that refer to?

A Those who come and aid Al-Shabaab in their fight against the Somalian government.

Q Those who aid against the fight against the Somalian government what?

A Those who aid Al-Shabaab, those who fight in jihad

against the Somalian government.
Q That's who he is referring to?
A Yes.
(Video plays.)
(Video stops.)
Q How did that video specifically affect you, Mr. Hadzovic?
A We believed what was happening in Somalia was oppression against the Somalian people and that it was our duty as Muslims to go and defend these innocent Muslims against the Somalian government. Also we liked the fact that Abu Mansour was offering daughters and crops for those who wished to get married.
Q Mr. Hadzovic, after watching all these kinds of videos and lectures, how did these things affect you and Mr. Kaziu generally?
MR. STERN: Objection, as to how they affected Mr. Kaziu.
THE COURT: Sustained.
Q How did these things affect you, Mr. Hadzovic?
A It's what ultimately made us want to go and fight in jihad and we made the intentions to do it and we left with the intention to do it.
Q Did these videos and lectures have an impact on the way you perceived Islam?
A Yes.

Q How did it have an impact on your perception of Islam?
A Well, first, being that it was haram, illegal to live in the U.S. because I believe that being a muslim we're stereotyped and somebody sees somebody with a beard and short pants they automatically label him as a terrorist and I felt that because of this that it was not permissible for me to live in this country. Another thing was that jihad was obligatory, obligatory on every single muslim around the world. So every single Muslim was obligated to go and take up arms wherever jihad was taking place.
Q Were there particular scholars and lecturers other than the ones we referred to that you began to pay attention to?
A Specifically, we didn't really take from scholars. They are more like imams or leaders in their areas. We more or less neglected senior scholars of like Saudi Arabia, those who were known, and we started accepting people like Osama Bin Laden and Anwar Al-Awlaki and Abu Mansour and Abu Abdullah.
Q And the senior scholars that you referred to, did they put out opinions or fatwas about certain issues in Islam?
A Yes, they did.
Q Did they put out opinions about jihad and whether or not it was obligatory for Muslims?
A Yes, they did.
Q What generally were the senior scholars' opinions ever whether or not jihad was obligatory?

A In one specific video that I watched of a senior scholar named Salih Fauzan, he spoke about the Al Qaeda and Taliban and that what they are doing was wrong and that they are the shatans, the devils and those who aid in capturing them are doing the true jihad.
Q The other people who you began to listen, like Osama Bin Laden and Anwar Al-Awlaki, what was their opinion of jihad?
A That it was obligatory and every single Muslim that was physically able to, to go and fight jihad.
Q At some point -- sorry. Which of those groups did you subscribe to?
A I would say with the extreme group.
Q And to your knowledge, which group did Mr. Kaziu subscribe to in that time period?
A We both were with people like Osama Bin Laden and Anwar Al-Awlaki and what they had to say.
Q At some point did you and Mr. Kaziu act on your beliefs?
A Yes, we did.
Q When was that?
A In February of '09.
Q What did you do?
A We left from JFK Airport with the intention -- three intentions actually, one making hijab, hijab meaning going to Cairo and never coming back to the U.S.; two studying Arabic; three, to go and fight in jihad.

Q And the first reason that you gave, why is it that you were going to Cairo?
A Because I felt as a Muslim I was facing trials and tribulations here in the west.
Q And why is it that you sought to go to learn Arabic?
A Two reasons, really. One being Arabic is the language of the Koran, the holy book. And another being that after we learned enough Arabic that we would go to places like Afghanistan and Iraq because they spoke Arabic over there.
Q Why jihad?
A Because we felt that this was an obligation upon us as Muslims.
Q Prior to traveling to Egypt to fight jihad, did you take any other trips overseas?
A Yes, I did.
Q Where did you go?
A In the year of '07 I went to Montenegro.
Q Why did you go to Montenegro?
A To visit family.
Q Did you go to Montenegro for the purpose of fighting jihad?
A No.
Q After you came back in Montenegro -- how long did you stay?
A About six weeks in Montenegro.

Q After you came back from Montenegro, did you go anywhere else before you went to Egypt to fight jihad?
A Yes, I did.
Q Where did you go?
A Saudi Arabia.
Q When did you go?
A In July of '08 I believe.
Q And who did you go with?
A It was me, Betim, Adam, Sead and my brother Amal.
Q What was the purpose of the trip?
A Religious purpose, spiritual journey.
Q Who organized the trip?
A A group called Al Massira.
Q Did you go for the purpose of fighting jihad?
A No.
Q Prior to your trip to Saudi Arabia, had you had discussions with Mr. Kaziu about jihad?
A I don't believe so. I mean we watched a few videos, but we didn't really have discussions on it.
Q Had you formalized any plans to go fight jihad before you went to Saudi Arabia?
A No.
Q What effect did the trip, if any, did the trip to Saudi Arabia have on you in terms of your religion?
A I guess it made my faith in God stronger and after coming

back from Saudi Arabia and seeing the way life was in Saudi Arabia I favored it over life in the west. I would say women were dressed more modest. Over here, like in the summertime, women were like more naked. It's hard for any man, especially if you are not married, to do these type of things.

Q Did your trip to Saudi Arabia have an impact on your desire to be?

A Yes it did.

Q How?

A After seeing life in Saudi Arabia, as to life in America, I felt that making hijra for me was better to get away from the trials and tribulations in the west.

Q Did you have conversations with Mr. Kaziu about that issue?

A Yes.

Q And how did he feel about his ran at that time?

A He felt hijra was obligatory.

Q You talked about Al Qaeda earlier. In 2008, before you left for I Egypt, what was your opinion of Al Qaeda?

A My opinion of Al Qaeda at that time was that -- that they were the right doers, that what they were doing was correct, that fighting the oppressors who were Americans.

Q And where were they fighting the oppressors who were Americans?

A Fighting in Iraq and also in Afghanistan.

Q Before you left for Egypt did Mr. Kaziu tell you his opinion of Al Qaeda?
A Yes.
Q What did he tell you his opinion of Al Qaeda was?
A The same as mine, that what they were doing was right and correct.
Q Now, Al-Shabaab, did you have an opinion of Al-Shabaab in 2008?
A Yes.
Q What was your opinion?
A That same thing, what Al-Shabaab was doing against the Somalian government for the Somalian government oppressing that was the right thing.
Q Did you have conversations with Mr. Kaziu about his opinion of Al-Shabaab?
A Yes, I did.
Q And did he tell you what his opinion of Al-Shabaab was?
A Yes, he did.
Q What did he tell you?
A The same as mines, that what Al-Shabaab was doing against the Somalian government was the right thing.
Q Now, in 2008 you and Betim, did you and Betim attend a -- regularly attend Masjid Tawhid?
A In 2008.
Q Yes.

A Before it moved, we did.
Q And after it moved, did you stop attending?
A We didn't completely stop attending. But we didn't go there as much.
Q Why not?
A The distance.
Q Was there another reason?
A I mean ultimately we stopped going because of a lecture that the imam gave there.
Q Who is the imam you are referring?
A Saudin Lilicic.
Q Can you tell the jury what happened at the lecture that Saudin Lilicic gave at Masjid Tawhid?
A We went there for prayer and while there, Saudin gathered the brothers and we sat down and he gave a lecture and he said to the people, those of you who talk about jihad, we don't want you in our masjid any more because we don't want you to endanger us and our families.
Q How did you react to that speech?
A At first I was kind of stunned.
Q Why were you stunned?
A Because prior from hearing Saudin Lilicic's lectures and him speaking about jihad during the time of the Prophet Muhammad, peace be upon him, and during the time of his companions I thought to myself that he was on the same page as

me.
Q And Mr. Kaziu he was with you, right?
A Yes.
Q And did he have a reaction?
A Yes.
Q What was his reaction?
A I believe the same as mines, that we were both stunned and ultimately we were angry at him and we didn't return.
Q Why were you angry at Saudin?
A Because he was opposing what we believed to be truth, that jihad today was happening in Afghanistan and Pakistan and Iraq and other countries, that this was obligatory upon every Muslim and that this should be preached.
Q Now, Mr. Hadzovic, after you returned from Saudi Arabia when did you or Mr. Kaziu first start discussing traveling overseas?
A I would say in October, November of '08 Betim spoke about going to Pakistan.
Q Were you involved in that conversation?
A Yes, I was.
Q Can you tell the jury a little bit about how that conversation began?
A Yes. Well, we were talking about hijra of course and about the situation in Afghanistan, what the Americans were doing to the Muslims and Betim decided that he wants to go

make hijra to Pakistan. Other than making hijra he wanted to go and join up with the Taliban and ultimately fight the U.S. troops and its allies.

(Continued on next page.)

EXAMINATION CONTINUES
BY MR. ARIAIL:
Q Did Mr. Kaziu, to your knowledge, take any steps related to his plan to go to Pakistan at that time?
A Yes, he did.
Q What did he do?
A He spoke with this one brother we knew named Hamza about if he could help him in finding someone that can get help him get an apartment and for him to go to school and get married.
Q Did he tell -- to your knowledge, did he tell Hamza that he wanted to go fight jihad in Pakistan and Afghanistan?
MR. STERN: Objection.
A To my knowledge --
THE COURT: Sustained.
Lay a foundation, please.
Q Were you present at the conversation with Hamza and Mr. Kaziu?
A Yes, case.
Q During that conversation, did Mr. Kaziu bring up the idea of fighting jihad?
A To Hamza?
Q Yes.
A No, he didn't.
Q Why did he not bring it up, if you know?
A To my knowledge, he didn't want to endanger Hamza for

what he wanted to do.

Q To your knowledge, is Hamza sympathetic to the idea of jihad?

MR. STERN: Objection.

THE COURT: Sustained.

Q What again, if you know, was Mr. Kaziu's purpose in asking Hamza to help him get to Pakistan?

MR. STERN: Objection.

THE COURT: Sustained.

Q After you had that conversation with Hamza, did you have a conversation with Mr. Kaziu?

A Yes.

Q Did he tell you what he wanted to do in Pakistan?

A Yes.

Q What did he tell you he wanted to do?

A That he wanted to go over there and one being for the purpose of hijrah and two being to go fight in jihad.

Q Did he tell you what or with whom he wanted to go fight jihad?

A Not specifically, but going there I myself knew that --

MR. STERN: Objection.

THE COURT: Did you know this -- sustained.

Q Prior to the conversation that you had with Mr. Kaziu about going to fight jihad in Pakistan, had you discussed the different groups that were there fighting jihad in Pakistan?

A Yes.
Q Who were those groups?
A Primarily Taliban and Al Qaeda.
Q Did Mr. Kaziu tell you that he wanted to go fight jihad with the Taliban and Al Qaeda?
MR. STERN: Objection, leading.
THE COURT: Overruled.
A Specifically?
Q That he -- did Mr. Kaziu ever tell you prior to this that he wanted to go fight jihad with Al Qaeda and the Taliban?
A Yes.
Q During these conversations related to this -- related to this Hamza or to your conversation with Hamza, did Mr. Kaziu tell you whether or not he wanted to go get weapons in Pakistan?
A Yes.
Q What did he tell you about that?
A There was this one documentary on Pakistan that it was on CNN of how cheap the firearms are in Pakistan. Specifically, the AK 47 being only $20.
Q Did he talk with you about other weapons that he wanted to get in Pakistan or Afghanistan?
A We spoke about many weapons, weapons like M-4s and M-16s and guns like that.
Q During the conversation that you had with Mr. Kaziu, at

that time, after speaking with Hamza, did you and he talk about how Mr. Kaziu planned to get to Afghanistan from Pakistan?

A Yes.

Q What did he tell you?

A He told me after going to Pakistan, that he would go to Waziristan which was known as being a Taliban stronghold. From there, joining up with them and ultimately going and fighting in Afghanistan.

Q Did he tell you why he wanted to go to Waziristan?

A Yes.

Q Why?

A Because Waziristan was a Taliban stronghold.

Q Why was that significant for him?

A Because the Taliban were fighting in jihad against the US troops.

Q During the conversations, did Mr. Kaziu ask you to come with him?

A Yes, he did.

Q How did you respond?

A At that time, I couldn't go with him.

Q Why not?

A I wasn't -- I had no money and I had family here and I was in school.

Q Did Mr. Kaziu tell you how he was going to pay for his

trip to Pakistan?
A He got some money through a lawsuit for breaking his arm in the monkey bars.
Q Do you know how much money he got?
A From the lawsuit?
Q Yes.
A No, I don't.
Q Ultimately, what happened to Mr. Kaziu's initial plan to go to Pakistan?
A Hamza couldn't help him.
Q Why not?
A Just couldn't.
Q After that fell through, did you talk with Betim about going somewhere else?
A Betim wanted to also go to Yemen for only the purpose of making hijra, not for fighting jihad.
Q When did you start talking about Cairo?
A I would say, in December, January of '08, '09.
Q Can you tell the jury about your first conversations about -- about the first conversations that you had with Mr. Kaziu about traveling to Cairo?
A Yes.
From what I can remember, we were very upset about what the US was doing to the Muslims and that we believed that hijra, leaving this -- the US was obligatory upon us, and we

decided that we would go to Cairo. Ultimately, we spoke more in -- and we decided that while in Cairo, we would go and try to fight jihad.
Q Why did you pick Cairo?
A We believed at that time that Cairo was a good place if we wanted to go to places, like Somalia, because it was nearby or other places like Israel, because Israel borders with Egypt. Also, everything was pretty much closed, like Asia, like Afghanistan and Pakistan.
Q Did you and Betim take any steps to find a place to stay in Cairo?
A Yes, we did.
Q What did you do?
A We spoke with a friend of ours named Imran Venjara and we asked him if he could help us finding an apartment. He was able to through his teacher?
Q After you guys found an apartment through Imran, what is it that you did next?
A Of course, we sent the money to the teacher of Imran. At that time I didn't have my passport or birth certificate. So I had to go and get a new birth certificate and passport.
Q Why didn't you have your passport and your birth certificate?
A Because after telling my parents that I didn't want to stay here anymore and they got angry. We disputed. I said

bad things to them and used foul language against them. They didn't want to give me my passport or any of my documents.

Q How did you get a new passport?

A I first went to get my birth certificate in Downtown Manhattan and after getting my birth certificate, I went to -- again to Downtown Manhattan and got my passport.

Q After you got your passport, what did you do next?

A After that, we went -- we also went to tawhid to say our goodbyes.

Q Tell the jury a little bit about what happened there.

A We went to tawhid, the Masjid we originally stopped gong to because of the lecture by the Iman. We went there to say good-bye to some of the brothers, that we were going to make hijra and said good-bye and left.

Q How did you pay for the trip?

A Betim paid for it.

Q How did he pay for it?

A Debit card.

Q Where did he get the money?

A Through -- the same thing, through the lawsuit.

Q Before you left, did Mr. Kaziu make any purchases?

A He bought a laptop.

Q Do you know where he bought the laptop?

A In Best Buy.

Q After you said your goodbyes at tawhid, what happened

next?
A I believe we just went to the airport.
Q Who went to the airport?
A Me and Betim, Adem, my brother, Sead, we all went.
Q What date was it that you left New York, if you can recall?
A It was somewhere in the twenties of February.
Q Which year?
A Of '09.
Q What airport were you leaving from?
A JFK Airport.
Q Where were you going to?
A Cairo, Egypt.
Q Why were you leaving JFK to fly to Cairo, Egypt?
A Three reasons. One, being to make hijra and to leave this country and never come back. And two, being to study Arabic. And three being to go and fight jihad.
Q Now, before you left, did you create a cover story for your plans to go overseas?
A I mean, we used to say that if we want to go to Somalia, that we would refer to as the beach. Also, that we were going to make hijra.
Q What do you mean by that?
A To what?
Q Both of those things.

A Well, if me and Betim ever spoke about going to Somalia, and instead of saying, hey, we are going to Somalia, we would say we are going to the beach because Somalia was like by the beach, coastline.
Q And the other piece, about hijra?
A Well, we never wanted to tell anybody our true purposes of going to Cairo, so we just told the people that we were going to make hijra.
Q Why -- sorry. Continue.
A I'm sorry.
Because we didn't want to endanger ourselves in getting caught and also we didn't want to endanger others.
Q Can you give the jury an example of the time when you used the code word the beach to mean Somalia?
A From what I can remember, one time we were in Adem's car and we were speaking about jihad in general and me and Betim said that we wanted to like die on the beach. Adem left because he didn't want to hear it. He didn't want to be any -- any part of it whatsoever.
Q What did you mean when you said that you wanted to die on the beach?
A Meaning that I wanted to die in jihad in Somalia.
Q You talked a minute ago about your parents.
During the time period before you and Betim left for Egypt, did your relationship with your parents change?

A Yes.
Q How did it change?
A I didn't speak with them at all. I completely neglected them from my life.
Q Why?
A Because they didn't want to allow me to do what I wanted to do.
Q What is it that you wanted to do?
A Leave this country and never come back.
Q Did you ever tell them that you wanted to go and fight jihad?
A No, I didn't.
Q Why not?
A Because that would be a stupid idea. My father would probably call the cops on me.
Q What airline did you take to Cairo?
A Egypt Air.
Q Did you fly directly there?
A Yes.
Q Did you sit together with Mr. Kaziu?
A Yes.
MR. ARIAIL: Your Honor, may I publish 908.
THE COURT: Yes. Go ahead.
Q Mr. Hadzovic, do you recognize this?
A Yes, I do.

Q What do you recognize this to be?
A It looks like a pattern from JFK Airport to Cairo, Egypt.
Q Is this the route that you and Mr. Kaziu took to Egypt?
A Yes.

MR. ARIAIL: Just publish it. We will offer it and publish it briefly, Your Honor.

THE COURT: Any objection?

MR. STERN: No.

THE COURT: Received.

(Marked.)

Q Mr. Hadzovic, you said a minute ago that you picked Cairo for a reason.

What again was the reason?
A It being close to some of the areas that we wanted to go and fight.
Q Can you tell the jury what happened when you first arrived in Egypt?
A Yes.

We arrived in Egypt. Got off the plane. Got our visas. Went through security. Got into a taxi and drove over to our first apartment. It was on -- I believe the street was called Sheikh Sami Street. From there the landlord came and his -- actually the landlord's son came and he brought us up to our apartment, showed us it and we unpacked and we also went out to get a cellphone.

Q Sorry. What was the name of the neighborhood that you first lived in Cairo?
A It was in Nasir City, in Cairo.
Q Can you describe just generally the neighborhood for the jury?
A The neighborhood was -- it was kind of dirty. There was like trash in front of our house and big garbage truck. I mean, it was fairly nice compared to the other neighborhoods in Egypt. There was -- there was a little park in front of our -- in front of our house. There was Masjids all over.
Q After you and Mr. Kaziu arrived, did you begin taking Arabic?
A Yes, we did.
Q Where did you start taking Arabic?
A El Fajr Institute.
Q What's El Fajr Institute?
A It's a school for Arabic.
Q How did you find out about El Fajr?
A Through Imran Venjara.
Q Where was El Fajr in relation to your first apartment?
A It was about 25 to 30 minute walk.
Q Can you tell the jury a little bit about the classes that you took at El Fajr?
A Sure.
The classes we took the first ones were -- were

private classes. Very small room, only a two-seater. It was just me and Betim at first. Eventually we started taking more -- more bigger classes. That consisted maybe of like about eight people and --

Q Ultimately, I think you said you moved apartments.

Where did you move to?

A It was still in Nasir city. But this neighborhood was called Hay Thamin.

Q Why is it that you moved?

A It was cheaper and also it was closer to the school.

Q The people that lived in the area around Hay Thamin, were they typically from Egypt or other places?

A It was a very diverse place. There was people from almost all parts of the world.

(Continued on next page.)

BY MR. ARIAIL:

Q And when you got to Cairo did you continue to discuss your plans to fight jihad with Mr. Kaziu?

A Yes.

Q When you first got to Cairo did your conversations with Mr. Kaziu focus on, in term of jihad, focus on a certain place?

A T first we spoke about doing jihad in Israel.

Q What did you speak about doing jihad in Israel?

A Going to Palestine and hooking up with the mujahideen in Palestine and fighting against Israel.

Q Were there other places, when you first got to Cairo, that you and Mr. Kaziu talked about going and fighting?

A We wanted to go to many places. We spoke about going to Chechnya, Somalia, Iraq, Afghanistan, Pakistan -- Israel, as I mentioned before.

Q When you had these conversations in Cairo, did you take any steps to conceal your conversations?

A Yes, we did.

Q What steps did you take?

A We used to take a battery from our phone, our SIM card out of our phone.

Q Why did you do that?

A Just to be cautious. We didn't want anybody listening in.

Q How did you have an idea that taking the SIM card and the batteries out of your phone might prevent people from listening in?

A Actually, I took that idea from a movie, the movie Eagle Eye. In that movie they were saying on TV how the FBI can listen on to you if you have -- if you have your SIM card in it.

Q Were there other steps that you took, and Mr. Kaziu took, to conceal your plans while you were in Cairo?

A I mean, if we ever wanted to seek help from somebody, we wouldn't go directly and ask them, Hey, can you help us in getting to Afghanistan or Pakistan or Somalia, where it was that we wanted to go.

Q What would you do?

A Rather, we would feel them out and see their opinion on what was happening today.

Q What do you mean by that, how would you feel them out?

A See their opinions on what they thought about Osama Bin Laden or what they thought about Al Qaeda, what they thought about the situation in Afghanistan in regard to the Muslims.

Q When you got to Cairo did you meet other people that were sympathetic to fighting jihad?

A Yes.

Q How soon after you arrived in Cairo did you and Mr. Kaziu meet other people that were sympathetic to jihad?

A About a week in, a week or two in.
Q Who was the first person you met that was sympathetic to the idea of going to fight jihad?
A Armend.
Q Who is Armend?
A He's from Kosovo.
Q How is it -- continue, sorry.
A He's from Kosovo. He was studying in Egypt.
Q How is it that you first met Armend?
A Through an Imam I knew in Plav.
Q What was that Iman's name?
A Sead Jasavic.
Q When did you meet that Iman in Plav?
A In the year of '07.
Q When were you -- when?
A In the year of '07 I went to Montenegro for vacation.
Q And how did you meet -- where did you first meet Armend?
A Armend, I met him first time was at the Cila Mall in Montenegro.
Q How did you get in touch with him?
A I got in touch with him through Sead Jasavic.
Q How literally did you get in touch with him?
A Through e-mail.
Q What was Armend doing in Egypt?
A From my knowledge, he was there studying.

Q And do you know if he was in Egypt legally?
A I believe his visa expired and he was there illegally.
Q Did you have specific conversation with Armend Kalanderi in which you talked about jihad?
A We both did, yes.
Q When you were say "we both did," what do you mean?
A Me and Betim had conversations with him.
Q During those conversations did Armend agree to assist you in your plan to go fight jihad?
A Yes, he did.
Q Where was it that he was going to assist you to go fight jihad?
A He referred us to a friend. I believe the friend's name was Bajram; that he was going to come in about three weeks to Cairo and he would help us to get to Pakistan.
Q What was it that you were going to do once you got to Pakistan?
A Go to Waziristan and join up with Taliban and Al Qaeda and when there receive both physical and combat training. When I mean combat training, I mean training with guns and things of that sort; ultimately from there going to Afghanistan and fighting jihad against U.S. allies -- U.S. troops and its allies.

MR. ARIAIL: May I publish to the witness Government's Exhibits 102?

THE COURT: Yes.

Q Mr. Hadzovic, do you recognize this?

A Yes, I do.

Q What do you recognize it to be?

A Armend Kalanderi.

Q Armend Kalanderi. Kalanderi is the last name?

A Yes, I believe so.

Q Armend was going to help you get in touch with somebody to get you to Afghanistan and Pakistan to fight with the Taliban and Al Qaeda; is that correct?

A Yes.

MR. ARIAIL: Your Honor, I'd offer 102 and request permission to publish it.

MR. STERN: No objection.

THE COURT: Received.

(So marked.)

MR. ARIAIL: If I could publish it on the other board?

THE COURT: Yes.

Q Mr. Hadzovic, were there other people in Cairo that you spoke with who were sympathetic to jihad?

A Yes.

Q Who else did you speak with in Cairo that was sympathetic to jihad?

A Ahmed.

Q Who is Ahmed?
A He's a Somalian that was studying in Egypt.
Q And when you say he's a Somalian, was he from Somalia?
A Yes, he was.
Q Did he live somewhere else after he was from Somalia?
A He was Somalian and he lived in the U.K.
Q Did you have specific conversations with Ahmed in which he agreed to facilitate your plan to go fight jihad?
A Yes.
Q And did Mr. Kaziu participate in those conversations?
A Yes.
Q Was there a specific country or place that Ahmed was going to help you go to fight jihad?
A Yes.
Q What was that country or place?
A Somalia.
Q Was there a specific group that he was going to hook you up with?
A Yes.
Q What was that group?
A Al-Shabaab.
Q Mr. Hadzovic, do you know Ahmed's last name?
A I don't know it.
Q Did you ever get Ahmed's e-mail?
A Yes, I did.

Q Did you learn Ahmed's last name upon reviewing his e-mail address?
A Yes. But I'm not sure as to whether that is really his last name.
Q What was his e-mail, if you know?
A Ahmeddini.
MR. ARIAIL: Can I publish, your Honor, just the name?
THE COURT: Yes.
Q Mr. Hadzovic, other than Armend Kalanderi and Ahmed the Somali, were there other people who you had a conversation with about jihad in Cairo?
A Yes.
Q Who else?
A I had conversations about jihad with Fadil.
Q Who is Fadil? What was Fadil doing in Egypt?
A He was studying Arabic.
Q I'm sorry, I don't know if I asked you. What was Ahmed doing in Egypt?
A As well, studying Arabic.
Q And was there anybody he is that you had conversations with about jihad in Egypt?
A Yes.
Q Who else?
A Murad.

Q Who is Murad?
A He's a Moroccan German that was studying in Egypt.
Q What was he studying in Egypt?
A Arabic.
Q Let's talk about Ahmed. How long after you arrived in Cairo did you meet Ahmed the Somali?
A Let's say a little bit over a month.
Q Where was it that you first met him?
A In the Masjid El Quddes.
Q What is that?
A The mosque near our house.
Q And who, if anybody, was with you when you met him?
A Me and Betim.
Q Did Ahmed speak English?
A Yes, he did.
Q When you first met him who participated in the conversation?
A Me, Betim and Ahmed.
Q Can you tell the jury, to the extent that you can remember, the conversations that you and Betim had with Ahmed at El Quddes Mosque.
A Our first conversation with Ahmed was to see whether or not he could help us in getting married to a Somalian woman. It would make our travels easier to Somalia.
So we went over to Ahmed in the mosque after prayer

and we gave him the greetings Salam and we sat down with him and we asked him how he was and everything.

After that we asked him if he knew any Somalian girls that were looking to get married. He replied that he didn't know.

Q If you're trying to get to Somalia at this time period, Mr. Hadzovic, why don't you get on a plane and fly directly to Somalia?

A Because I had read that the U.S. embassy had like flagged it for people to travel there.

Q Why, if you know?

A I believe cause of the wars that were going on.

Q And what wars were going on in Somalia?

A Al-Shabaab against the Somalian government.

Q Why is it that you asked, you and Mr. Kaziu asked Ahmed to find you a Somalian wife?

A We figured that if we had Somalian wives it would make our travel there easier because they won't deny us Somalian citizenship.

Q During that first conversation with Ahmed did you talk about jihad?

A The first conversation?

Q That first conversation?

A No, we didn't.

Q After you met Ahmed did you and Mr. Kaziu continue your

relationship with him?
A Yes, we did.
Q When did you next see him?
A I would say about a week or two after our first meeting.
Q Where did you see him?
A He lived in the area, in the same area of Hay Thamin, which was fairly small and we went to the same masjid.
Q The second time you saw him was Mr. Kaziu with you?
A Yes.
Q Did you have a conversation?
A Yes, we did.
Q What was the conversation?
A With Ahmed?
Q Ahmed, yes.
A We invited him to our house.
Q And ultimately did he come to your house?
A Yes, he did.
Q Prior to inviting him to your apartment, did you and Mr. Kaziu have a conversation about Ahmed coming to your apartment?
A Yes, we did.
Q What was the conversation?
A We were speaking about if he would be able to help us in getting to Somalia.
Q For what purpose?

A For fighting jihad.
Q When did Ahmed ultimately come to your apartment?
A About a week or two after our first meeting.
Q And how long did he stay?
A About a couple of hours.
Q Who was there?
A It was just me, Betim and Ahmed.
Q Can you tell the jury what happened during the meeting with Ahmed and Mr. Kaziu in your apartment?
A Sure.
Q Ahmed came over. We had invited him so he came in. We gave him Salam. We greeted him and we brang him to the sitting room. After that we bring like some tea, some drinks and some sweets, cake and things of that sort.
We sat down with him and asked him how he was doing and everything. After that we asked him what was his thought about the situation in Somalia, what was happening with Somalia people and its government. He was of the opinion similar to ours that what Al-Shabaab was doing was the right thing?
Q What is it again that Al-Shaab was doing?
A Fighting the Somalian government.
Q And to what end?
A To the end where they would overthrow them and implement shariah.

Q Now, during that conversation did you or Mr. Kaziu tell Ahmed that you both wanted to go and fight jihad in Somalia?
A I don't believe it was that -- that actual meeting with him.
Q Did you talk in that meeting about any specific people who were involved or that you believed to be involved in Al-Shaab?
A Yes.
Q Who did you speak about?
A Abu Mansour.
Q Who again is Abu Mansour?
A He is the leader of Al-Shaabab.
Q Can you tell the jury about the conversation that you and Mr. Kaziu and Ahmed had about Abu Mansour?
A Yes. Well, I was feeling him out and seeing what his opinions were on the jihad in Somalia. We asked him about Abu Mansour, who is the leader of Al-Shaab, and we wanted to see his thoughts on him, and Ahmed was with the same idea as ours that what he was doing was right in leading this rebellion against the Somalian government.
Q Now, the video earlier today that you watched, did you talk about that video?
A Yes.
Q And can you tell the jury about the conversation you had about that video?

A Yes. Just similar to the last one. We watched the video and wanted to see his opinions on who he thought were -- who Abu Mansour was, and we seen that he was with the same idea of ours that what Abu Mansour was doing was the right thing.
Q Now, after the meeting with Ahmed in your apartment, did you and Mr. Kaziu have other conversations about Ahmed?
A Yes.
Q Can you tell the jury about the conversations, the first conversation you had about Ahmed after you met in your apartment?
A Yes. After he left me and Betim spoke about asking him whether he can help us in getting to Somalia. We of course decided to invite him again.
Q When you say help -- if he could help you get to Somalia, what was the purpose?
A To fight jihad in Somalia.
Q Did you have another meeting with Ahmed, did you and Mr. Kaziu have another meeting with Ahmed after that?
A Yes, with he did.
Q When was that?
A About, I would say, a week later, prior -- prior to our last meeting.
Q Where was the second meeting?
A The same place, our apartment.
Q And who was there?

A Me, Betim and Ahmed.
Q Could you tell the jury again, or tell the jury what happened the second time Ahmed met with you and Mr. Kaziu at your apartment.
A Yes. Again, Ahmed had come over and we welcomed him inside, we greeted him and of course brang out drinks and some type of sweets.
We sat down with him and asked him how he was and, you know, how was his family. After that we basically asked him whether he can help us in getting to Somalia and Ahmed replied that he can try.
Q Now, Mr. Hadzovic, during the first meeting with Ahmed did you and Mr. Kaziu take any precautions during that meeting?
A Yes.
Q What precautions did you take?
A Almost at any meeting that we had about jihad, we would take out the batteries and SIM cards from our cellphones and computer. We would put it in another room and close the door.
Q During the second meeting with Ahmed did you take the same precautions?
A Yes.
Q During that conversation did you actually ask -- or did you ask Ahmed whether he wanted to fight jihad?
A Yes, we did.

Q And what did he say?
A He said that he would but couldn't.
Q Did he say why he couldn't?
A Yes.
Q What did he say?
A That he was married and that he had a family.
Q During that meeting did Ahmed tell you or take any steps to actually facilitate getting you to Somalia?
A Yes, he did.
Q What did he do?
A He downloaded a program called JustVoip and this program you put money in it and you can call from anywhere around the world, just like Skype.
Q And after he downloaded JustVoip did he start making phone calls?
A Yes, he did.
Q Who was it that called?
A I mean, I don't really know because he was speaking in Somalian language.
Q Did he tell you who it was that he was calling?
A He said he was going to call some relatives and friends to see where he can find that specific relative that could help us in getting to Somalia.
Q During that conversation in the second meeting in the apartment, did you and Mr. Kaziu and Ahmed talk about other

fighters in Al-Shaab other than Abu Mansour?
A I know me and Betim spoke about Abu Mansour Al-Amriki.
Q Who is Abu Mansour Al-Amriki?
A He's an American. He was an American that went to Somalia and took up arms against Somalian government.
Q And how is it that you know that?
A Because there's videos on him.

MR. ARIAIL: Your Honor, if I may. If you want to take a break at this point?

THE COURT: No, thanks. We'll go to five.

What would you like to do?

MR. ARIAIL: Play a video.

THE COURT: Is it in evidence?

MR. ARIAIL: It is not yet, your Honor. I will show it to the witness.

THE COURT: Go right ahead. Is it on the laptop?

MR. ARIAIL: It is.

(Continued next page)

BY MR. ARIAIL:
Q Mr. Hadzovic, I'm directing your attention to the folder on the screen mark Exhibit 921. Do you recognize this on screen?
A Yes, I do.
Q What do you recognize it to be?
A This is Abu Mansour al Ameriki.
Q Did you and Mr. Kaziu watch this video while you were in Cairo, Egypt?
A Yes, we did.
Q Did you have conversations about this video while you were in Cairo, Egypt?
A Yes.
Q Can you tell the jury what were the conversation that you and Mr. Kaziu had about Abu Mansour al Ameriki in this video?
A After seeing Abu Mansour and him going to Somalia and taking up arms against Somalian government troops, it has now influenced us because we were trying to do the same exact thing that he was doing, that is, going to Somalia and fighting in jihad.
Q What about Abu man and al Ameriki inspired you?
A Him being American and us being American as well and going from America to Somalia and fighting jihad.
MR. ARIAIL: , I would offer Government's Exhibit 921 and ask permission to play it.

MR. STERN: Same objection.

THE COURT: Same objection overruled. Received.

(So marked.)

Q Before I play it, can you tell the jury a little bit about what it is we are going to be seeing in this video?

A I believe in this video Abu Mansour is giving a speech to someone who died in jihad.

Q Where is this video taking place?

A To my knowledge in Somalia.

(Video place.)

(Video stops.)

Q Mr. Hadzovic, in this video, is there another part to this video?

A This specific video?

Q Yes.

A I don't know.

Q Did you watch other videos of Abu Mansour al Ameriki?

A Yes, we did.

Q Did you watch them with Mr. Kaziu while you were in Egypt?

A Yes.

Q In those other videos you watched of Abu Mansour al Ameriki, what did you observe Abu Mansour al Ameriki doing?

A He had wanted to be talking about how he was going to attack the Somalian and Ethiopian troops. He had other ones

of him doing a rap.
Q What do you mean?
A Like him rapping about like dying and fighting in jihad.
THE COURT: Are you going back to the video?
MR. ARIAIL: No, your Honor.
Q After the second meeting with Ahmed in Somalia, did you continue to have conversation about getting to Somalia?
A Yes.
Q Can you tell the jury about the continued conversations you had with Ahmed about getting to Somalia?
A After telling Ahmed our plans of going to fight in jihad, he used to come over quite frequently and try to make phone calls to his relative that was supposed to help us in getting to Somalia.
Q And the phone calls that he was trying to make, with the Just Voip software, how was he doing this?
A It was from Betim's computer.
Q What kind after computer was that?
A I believe it was a Dell.
Q And how was it -- did Ahmed tell you how it was that he planned on getting you to Somalia?
A After he would get in contact with his cousin, me and Betim could go to Kenya, from Kenya we would go to border of the Kenya and Somalia and from there his cousin would pick us up and drive us over to Mogadishu.

Q And how was it that you intended to get across the border?
A Just crossing it. But if we had any type of issues with let's say border patrol, we could just pay them off.
Q And how was Ahmed's cousin or people going to help you in that?
A He was going to pick up us and drive us to Mogadishu.
Q Where was he going to pick you up?
A At the border of Kenya and Somalia.
Q During your conversations with Ahmed did you talk about going another route to Somalia?
A Me and Betim spoke about another route.
Q And what was that route?
A Initially it was through Djibouti and from Djibouti going into Somalia and Somalia finding our way to Mogadishu.
Q Again why wouldn't you fly straight to Mogadishu from Cairo?
A Because the U.S. embassy had flagged it for Americans to travel there.
MR. ARIAIL: Your Honor if I could use the Elmo?
THE COURT: Sure.
MR. ARIAIL: Just for the witness.
THE COURT: Yes.
Q Mr. Hadzovic, do you recognize this?
A Yes, I do.

Q What do you recognize this to be?
A It looks like a route from Cairo to Kenya, from Kenya crossing the border into Khartum and Mogadishu.
MR. ARIAIL: I would offer 910.
THE COURT: Received.
(So marked.)
Q I'm showing you what's marked as Government's Exhibit --
MR. ARIAIL: Just for the witness, your Honor.
THE COURT: Yes.
Q -- 909. Do you recognize this?
A Yes, I do.
Q What is this?
A It looks like a route from Cairo to Djibouti, from Djibouti to Mogadishu.
MR. ARIAIL: I would offer 909 and request to publish.
MR. STERN: Objection.
THE COURT: Received.
(So marked.)
Q And Mr. Hadzovic, Djibouti is a right here. What is Djibouti, do you know?
A It a country.
Q What sort of country is it?
A I believe it's a French colonized country.
Q And did you talk about going through Djibouti to get to

Mogadishu?
A Yes.
Q Did you decide whether or not one route as better than the other?
A Of course we thought Kenya was the better route.
Q Why?
A One being Ahmed's cousin and him being able to get us and pick us up from the border of Kenya and Somalia. Another thing being that -- at least I thought this way -- that Djibouti being a French colonized country that they would have a lot of security and that it wouldn't be the best idea.
Q Did you and Mr. Kaziu talk about another way to get to Kenya for purposes of getting to Mogadishu?
A Yes.
Q What was that way?
A One way we discussed after we seen Ahmed wasn't getting in contact with his relative was shaving our beards and going to Kenya as tourists and then while in Kenya we would go to Somalia.
Q Why is it that you would shave your beards?
A I guess to look less suspicious.
Q Now, at the time that you were meeting with Ahmed in Cairo, what did you understand Al-Shabaab's main goals to be in Somalia?
A My understanding was that their main goals were to

overthrow the Somalian government and implement sharia.
Q To your understanding how was it that Al-Shabaab intended to overthrow the government of the Somalia and to implement sharia law?
A To my understanding it was of course kill Somalian troops and sabotage government buildings by using bombs and things of that sort.
Q And what sorts of weapons did you have an understanding that Al-Shabaab was using in carrying out these efforts?
A Mainly AK-47's and RPG's.
Q Were there other weapons that you believed that they were using?
A I believe that they were using more than that. But from what I actually seen through the video it was AK-47's and RPG's.
Q An AK-47, what's an AK-47, if you know?
A Assault rifle.
Q Do you know whether or not it's semiautomatic or automatic?
A I believe it's automatic.
Q And what do you mean by automatic?
A I mean like when you press down the trigger it basically goes until you waste your clip.
THE COURT: Would now be a good time to break?
MR. ARIAIL: Certainly, your Honor.

THE COURT: Let's break for the day.

Don't discuss the case. Have a nice evening. See you tomorrow morning.

All rise.

Good night, ladies and gentlemen.

(Jury excused.)

THE COURT: Thank you, sir.

(Witness excused.)

THE COURT: Let the jury clear before you take him out.

Please be seated.

How much more, roughly, in terms of time will your direct take?

MR. ARIAIL: I think, your Honor two hours at the most.

THE COURT: Okay.

MR. ARIAIL: Give or take.

THE COURT: All right. Do you have an estimate about how long your cross-examination will take.

MR. STERN: I expect it to take about two hours, unless we talk about Ahmed for another two hours, then it will had another half hour.

THE COURT: Which witnesses will follow this witness.

MR. DuCHARME: Brian Booth, your Honor. He's a computer specialist from the FBI and another special agent of the FBI. Both of those witnesses we expect to be fairly short.

THE COURT: Do I recall correctly that there were seven government witnesses, other than this one?

MR. DuCHARME: I think there's seven in total, your Honor.

THE COURT: Okay. Sounds like you're on a trajectory to rest early in the week.

MR. DuCHARME: I think that's correct. With respect to our expert witness -- I was just speaking with defense counsel earlier -- if we were to finish with the two shorter witnesses tomorrow afternoon, would you want us to be prepared to start with our expert as soon as possible or can we do that on Friday morning?

THE COURT: No. I don't want to have dead time.

MR. DuCHARME: So we'll be ready to go.

THE COURT: Please.

MR. DuCHARME: No problem.

THE COURT: All right. Good night.

(Case adjourned to Thursday, June 30, 2011, at 9:30 a.m.)

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